A BILL FOR AN ACT

To further amend Sections 801, 802, 803 of Title 54 of the Code of the Federated States of Micronesia, by repealing sections 804 and 805, 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 2010, and for other purposes.

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

Section 1. Section 801 of chapter 8 of Title 54 of the Code of the Federated States of Micronesia, is hereby further amended to read as follows:

"Section 801. [Tax liens] Short Title. [Any taxes imposed or authorized under this title upon property shall be a lien upon the property and may be collected by levy upon it in the same manner as the levy of an execution] This Chapter may be cited as Revenue Administration Act of 2010."

Section 2. Section 802 of chapter 8 of Title 54 of the Code of the Federated States of Micronesia, is hereby further amended to read as follows:

"Section 802. [Civil action of enforcement] Definitions. [Any taxes or license fees imposed or authorized under this title or under any district law may also be collected by a civil suit brought either in the name of the taxing unit concerned or in the name of the person authorized to collect the same. In such civil suit a written statement of the treasurer of the unit]"
concerned, as to the amount of tax due, the fact that it is unpaid, and who is authorized to collect it, shall be sufficient evidence of these matters unless the contrary is expressly shown]. Wherever used in this Chapter, unless the subject matter, context, or sense otherwise requires:

(1) “Arrangement” means any contract, agreement, plan, or understanding whether express or implied and whether or not enforceable in legal proceedings.

(2) “Authority” means the FSM Unified Revenue Authority established under section 711 of this Title.

(3) “Board” means the Board of Directors of the Authority appointed under Chapter 7 of this Title.

(4) “CEO” means the Chief Executive Officer appointed under chapter 7 of this Title.

(5) “Associate” has the meaning in section 515.

(6) “FSM” means the Federated States of Micronesia.

(7) “Installment of tax” means an installment of tax payable under Chapter 3 of this Title;

(8) “Late payment interest” means late payment interest imposed under section 891.

(9) “Net profit tax” means net profit tax imposed under Chapter 3 of this Title.

(10) “Objection decision” means the decision referred to in section 831(5).
(11) “Person” means an individual, company, corporation, partnership, unincorporated association or other business entity, trust, estate, government, political subdivision of a government, or public international organization.

(12) “Prescribed” means prescribed by the Secretary in regulations.

(13) “President” means the President of the FSM.

(14) “Presumptive tax” means presumptive tax imposed under Chapter 3 of this Title.

(15) “Representative” means -

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

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

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

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

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

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

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

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

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

(16) “Revenue law” means –

(a) any Chapter under this Title;
(b) a law of the FSM imposing a tax or duty if
the law provides that the Authority has the
responsibility for administering the tax or duty; and
(c) a law of a State imposing a tax that the
Authority is permitted to administer by virtue of the
laws of such State.

(17) “Revenue officer” means the CEO and any officer of
the Authority appointed under Chapter 7 of this Title.

(18) “Secretary” means the Secretary of the Department
of Finance.

(19) “Self-assessment” means a self-assessment of net
profits tax, presumptive tax, or VAT.

(20) “Self-assessment return” means a tax return
required to be furnished by a self-assessment taxpayer.

(21) “Self-assessment taxpayer” means a person liable
for net profit tax, presumptive tax, or VAT.

(22) “State” means a State of the FSM.

(23) “Tax” means any tax, duty, or penalty
imposed under a revenue law, and includes an installment
of tax and withholding tax.

(24) “Tax assessment” means –
(a) an assessment of wages and salaries tax under
section 152 of this Title;
(b) a self-assessment;
(c) an assessment under this Subchapter III,
including an amended assessment; and

(d) an assessment of penalty under section 896.

(25) "Tax decision" means –

(a) a tax assessment; or

(b) a decision in relation to a revenue law on

any matter left to the discretion, judgment, direction,

opinion, approval, consent, satisfaction, or

determination of the CEO, other than such decision made

by the CEO in relation to the making of a tax assessment

or to take action on subchapter VI.

(26) "Tax period" means –

(a) in the case of tax imposed on wages and

salaries

payable by the employer by withholding under section

132 of this Title or payable by the employee under

section 138, the quarter;

(b) in the case of the net profits tax or

presumptive tax, the tax year;

(c) in the case of installments of net profit

tax,

the period to which the installment relates;

(d) in the case of tax withheld from a payment

under

Chapter 3 of this Title, the period to which the

withholding relates;
(e) in the case of VAT, the VAT period; or
(f) in any other case, the period for which the

tax or duty is reported.

(27) “Tax return” means a return required to be filed
under a revenue law.

(28) “Taxpayer” means a person liable for any tax or
duty imposed under a revenue law and includes –

(a) an employer liable to withhold tax from a

payment

of wages and salaries under section 132 of this Title;

and

(b) a person liable to withhold tax from a

payment

under Chapter 3 of this Title.

(29) “VAT” means valued added tax imposed under a

revenue Law.

(30) “Wages and salaries tax” means the tax imposed

under section 121 of this Title.

(31) “Withholding tax” means the amount that a payer is

required to withhold from a payment as tax.”

Section 3. Section 803 of chapter 8 of Title 54 of the Code
of the Federated States of Micronesia is hereby further amended to
read as follows:
“Section 803. [Rules and regulations - Promulgation by Secretary of Finance] References to Terms Used in Other Laws.

(1) The Secretary of Finance, with the approval of the President of the Federated States of Micronesia, shall prescribe such rules and regulations as are necessary to collect all taxes, fees, and charges levied or imposed under this title and all such taxes, fees, and charges shall be deposited in the General Fund of the Federated States of Micronesia for appropriation by the Congress of the Federated States of Micronesia.

(2) Such rules and regulations shall wherever practicable require payment in full of all taxes, fees, and charges immediately upon assessment, and in the case of import taxes, no later than 15 days after the departure of the vessel or planes on which the products subject to import taxes arrived and before any merchandise is released by the carrier or his agent to the importer and, in the case of export taxes, before any merchandise is loaded on any vessel or aircraft.]

When this Chapter applies in respect of a revenue law, any term not defined in this Chapter has the meaning that it has for the purposes of the revenue law.”
Section 4. Section 804 of chapter 8 of Title 54 of the Code of the Federated States of Micronesia is hereby repealed in its entirety.

Section 5. Section 805 of chapter 8 of Title 54 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 7-41, 9-139, 10-68, 13-21, 13-60 and 15-24 is hereby repealed in its entirety.

Section 6. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new subchapter II of chapter 8 to be entitled “Tax Returns”.

Section 7. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 811 to subchapter II of chapter 8 to be read as follows:

“Section 811. Extension of Time to File a Tax Return.

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

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

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

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

“Section 812. Tax Return Duly Made.

A tax return purporting to be filed by or on behalf of a taxpayer is treated as having been filed by the taxpayer or with the taxpayer’s authority unless the contrary is proved.”

Section 9. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new subchapter III to be entitled “Tax Decisions”.

Section 10. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 821 to subchapter III of chapter 8 to read as follows:

“Section 821. Self-assessments.

For the purposes of this Chapter—

(a) a self-assessment taxpayer who has filed a self-assessment return is treated as having made an assessment of the amount of tax payable for the tax period to which the return relates being that amount as set out in the return; and
(b) a self-assessment return furnished by a self-assessment taxpayer is treated as a notice of the assessment served by the CEO on the taxpayer on the date the return was filed.”

Section 11. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 822 to subchapter III of chapter 8 to read as follows:

“Section 822. Assessment of Person who Fails to File a Tax Return.

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

(2) The CEO must serve a taxpayer assessed under subsection (1) with notice of the assessment as soon as is practicable after making the assessment. The notice must state–

(a) the amount of tax payable;

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

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

(d) the date of issue of the notice; and
Section 12. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 823 to subchapter III of chapter 8 to read as follows:

"Section 823. Advanced Tax Assessments.

(1) If, in any tax period –

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

(b) the CEO has reasonable grounds to believe that a taxpayer liable for tax on an assessment basis under a revenue law may leave, or has left, FSM without filing a return as required under the revenue law for the tax period, the CEO may make an assessment of the tax payable for the tax period and the tax is payable on the date set out in the notice of assessment served on the taxpayer.

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

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

Section 13. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 824 to subchapter III of chapter 8 to read as follows:

“Section 824. Amendment of Tax Assessments.

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

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

(3) The amendment of a tax assessment under subsection (1) may be made—

(a) in the case of fraud or willful neglect, within six years of the date the CEO served notice of the assessment on the taxpayer or within one year after
the fraud or willful neglect is discovered, whichever is
the later; or
(b) in any other case, within six years of the
date the CEO served notice of the assessment on the
taxpayer.

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

(5) Subject to subsection (6), if a notice of
assessment (referred to as the “original assessment”)
has been amended under subsection (1), the CEO may
further amend the original assessment within the later
of-

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

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

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

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

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

Section 14. Title 54 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 825 to
subchapter III of chapter 8 to read as follows:

“Section 825. Validity of Tax Decisions.
The validity of a tax decision, a notice of a tax
decision, or any other document purporting to be made or
executed under a revenue law—
(a) cannot be quashed or deemed to be void or
voidable for want of form; or
(b) is not affected by reason of any immaterial
mistake, defect, or omission therein, if it is, in
substance and effect, in conformity with the law under
which it has been made, issued, or executed and the
person assessed, or intended to be assessed or affected
by the decision or document, is designated in it
according to common understanding.”

Section 15. Title 54 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 826 to
subchapter III of chapter 8 to read as follows:

“Section 826. Correctness of Tax Decisions.
(1) Except in proceedings under Subchapter IV—
(a) no tax decision can be disputed in any Court or in any other proceedings on any ground whatsoever;

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

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

(2) A Court must, in all proceedings, take judicial notice of the signature of the CEO in either the original or copy of a notice of a tax decision.”

Section 16. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 827 to subchapter III of chapter 8 to read as follows:

“Section 827. Rectification of Mistakes.

If the CEO is satisfied that an order made or document issued by the CEO under a tax law contains a mistake that is apparent on the face of the record or document and the mistake does not involve a dispute as to the interpretation of the law or facts of the case, the CEO
may, for the purposes of rectifying the mistake, amend
the order or document any time before the expiry of six
years from the date of making or issuing the order or
document.”

Section 17. Title 54 of the Code of the Code of the Federated
States of Micronesia is hereby amended by adding a new subchapter
IV of chapter 8 to be entitled “Objections and Appeals”.

Section 18. Title 54 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 831 to
subchapter IV of chapter 8 to read as follows:

“Section 831. Objection to Tax Decision.

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

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

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

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

(5) Subject to subsection (6), the CEO must consider the objection and either allow the objection in whole or part, or disallow it, and the CEO’s decision is referred to as an “objection decision”.

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

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

Section 19. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 832 to subchapter IV of chapter 8 to read as follows:

“Section 832. Judicial Review

(1) A person dissatisfied with an objection decision may institute an action for review in a Court of competent jurisdiction in FSM. Such action is commenced
by filing a petition, within sixty days after service
of notice of the objection decision, setting forth—

   (a) assignments of errors alleged to have been
committed by the CEO in making the objection decision;
   (b) the facts relied upon to sustain such
assignments of errors; and
   (c) a prayer for appropriate relief.

(2) The CEO is the defendant in proceedings under
subsection (1).

(3) The payment of the amount of tax in dispute, in
whole or part, after the filing of a petition under
subsection (1) does not deprive the Court of
jurisdiction.

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

(5) This section shall not condition or limit the
right of a taxpayer to seek immediate judicial review of
any action taken or to be taken under Subchapter VI
hereof.”
Section 20. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 833 to subchapter IV of chapter 8 to read as follows:

"Section 833. General Provisions Relating to Objections and Appeals.

(1) In any proceeding under this Division—

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

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

(2) In an action for review by a Court under section 832, the person bringing the action is limited to the grounds stated in the person’s objection to the CEO.

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

(4) The reviewing Court shall—

   (a) compel any action of the CEO unlawfully withheld or unreasonably delayed;
(b) hold unlawful and set aside any actions and decisions of the CEO found to be—

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

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

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

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

(v) unwarranted by the facts.

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

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

Section 21. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new subchapter V of chapter 8 to be entitled “Recovery of Unpaid Tax”.

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Section 22. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 841 to subchapter V of chapter 8 to read as follows:

“Section 841. Payment of Tax.

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

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

(3) In any suit under subsection (2), the production of a certificate signed by the CEO stating the name and address of the taxpayer and the amount of tax due is sufficient evidence that the amount of tax is due by the taxpayer and sufficient authority for the Court to give judgment with full costs of suit against the taxpayer.”

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

“Section 842. Extension of Time to Pay Tax.

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

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

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

(b) require the taxpayer to pay the tax due in

such installments as the CEO may determine, and the CEO

must serve the taxpayer with written notice of the
decision.

(3) If a taxpayer permitted to pay tax by installments

defaults in the payment of an installment, the whole

balance of the tax outstanding, at the time of default,
is immediately payable.

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

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

“Section 843. Trustees, Liquidators, and Executors.

(1) In this section, “trustee” means–

(a) a liquidator of a company being wound up;
(b) a receiver for debenture holders who has
taken possession of any assets of a company;
(c) a trustee in bankruptcy;
(d) a mortgagee in possession;
(e) an executor of a deceased estate; or
(f) any other person holding a similar office or acting in a similar capacity; and

“taxpayer”, in relation to a trustee, means the person whose assets are in the possession or control of the trustee, including if the trustee is an executor, the estate of the deceased person.

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

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

(4) Subject to subsection (5), a trustee—

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

(b) must set aside, out of the assets available for the payment of tax due by the taxpayer, assets to the value of the amount notified under subsection (3), or the whole of the assets if their value is less than the amount notified; and
(c) is, to the extent of the value of the assets required to be set aside, liable for the tax due by the taxpayer.

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

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

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

Section 25. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 844 to subchapter V of chapter 8 to read as follows:

“Section 844. Recovery of Unpaid Tax from Third Party.

(1) In this Section, “payer” means a person who-

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

(b) holds or may subsequently hold money, for or on account of, a taxpayer;
(c) holds money on account of some other person for payment to a taxpayer; or

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

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

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

(4) A payer must pay the amount specified in a notice under subsection (3) by the date specified in the notice, being a date that is not before the date that the amount owed to the taxpayer becomes due to the taxpayer or held on the taxpayer’s behalf.

(5) If a notice served under subsection (3) requires a payer to deduct amounts from wages or salaries, the amount required to be deducted by the payer from each payment must not exceed twenty percent of the amount of each payment of wages or salaries.
(6) If a person served with a notice under subsection (3) is unable to comply with the notice by reason of lack of moneys owing to, or held for, the taxpayer, the person must notify the CEO, in writing, setting out the reasons for the person’s inability to comply.

(7) If a notice is served on the CEO under subsection (6), the CEO may, by notice in writing—

(a) accept the notification and cancel or amend the notice issued under subsection (3); or

(b) reject the notification.

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

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

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

(11) A payer making a payment under this section is treated as acting under the authority of the taxpayer and of all other persons concerned and is hereby indemnified in respect of the payment.
(12) The CEO must apply any amount paid by a payer under this section to the tax owing by the taxpayer.

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

(14) The amounts referred to in subsections (10) and (13) are treated as if they were tax payable by the payer as taxpayer for the purposes of this Subchapter, Subchapter VI, and sections 871.”

Section 26. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 845 to subchapter V of chapter 8 to read as follows:


(1) In addition to any other right of levy and execution set forth in Subchapter VI hereunder and the powers of forfeiture under subchapter IV of Chapter 2, the CEO or a revenue officer authorized by the CEO in writing for the purposes of this section may seize any goods if the VAT that is payable in respect of the supply or import of those goods has not been paid or the CEO or authorized officer has reasonable grounds to believe that such VAT will not be paid.

(2) Any goods seized under this section must be stored in a place approved by the CEO or authorized officer for the storage of seized goods.
(3) If goods have been seized under subsection (1), the CEO or authorized officer must, as soon as is practicable after the seizure, serve on the owner of the goods or the person who had custody or control of the goods immediately before the seizure, a notice in writing—

(a) identifying the goods;

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

(c) setting out the terms of subsections (6), (7), and (8).

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

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

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

(7) Except if subsection (6) applies, the CEO or authorized officer must detain the goods seized under subsection (1)–

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

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

(8) If the detention period in subsection (7) has expired, the CEO or authorized officer may sell the goods by public auction or, in the case of perishable goods, may sell the goods in such manner as the CEO or authorized officer determines, and apply the proceeds of sale as follows–

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

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

(c) then towards payment of any other tax due by the person whose goods have been seized; and
(d) the remainder of the proceeds, if any, must be paid to the person whose goods have been seized.

(9) If the proceeds of disposal are less than the sum of the cost of taking, keeping, and selling the goods seized and the VAT due, the CEO or authorized officer may proceed under this Chapter to recover the excess.

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

Section 27. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 846 to subchapter V of chapter 8 to read as follows:

“Section 846. CEO May Require Security.
The CEO may, for the purposes of securing payment of any tax that is or will become due, require a taxpayer to give security in such amount and in such manner as the CEO thinks fit.”

Section 28. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 847 to subchapter V of chapter 8 to read as follows:

“Section 847. Taxpayer Leaving FSM.
(1) If the CEO has reasonable grounds to believe that a taxpayer may leave FSM before the due date for payment of any tax and the taxpayer has not made an arrangement
satisfactory to the CEO for payment of the tax, the tax is due on such date as specified by the CEO by notice in writing to the taxpayer.

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

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

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

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

(4) Payment of the tax specified in the certificate to a customs or immigration officer or the production of a certificate signed by the CEO stating that the tax has been paid or satisfactory arrangements for payment have been made is sufficient authority for allowing the taxpayer to leave FSM.”
(1) If a taxpayer fails to pay VAT or tax withheld from wages and salaries on or before the due date, the CEO or revenue officer authorized by the CEO, in writing, for the purposes of this section may notify the taxpayer in writing of the intention to close down part or the whole of the taxpayer’s business unless the taxpayer pays the tax due within seven days of the date of the notice.

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

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

(4) The CEO or authorized officer shall affix, in a conspicuous place on the front of the premises of the business or part of the business which has been closed under an order issued under subsection (2), a notice in the following words “CLOSED TEMPORARILY FOR NOT COMPLYING WITH TAX OBLIGATIONS BY ORDER OF THE CEO OF THE FSM UNIFIED REVENUE AUTHORITY UNDER SECTION 848 OF THE REVENUE ADMINISTRATION ACT".
(5) If the tax due is paid in full within the period of closure, or a satisfactory arrangement is reached with the CEO with respect to payment of the tax, the order issued under subsection (2) ceases to have effect and the CEO must immediately arrange for removal of the notice referred to in subsection (4)."

Section 29. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new subchapter VI to chapter 8 to be entitled “Levy and Execution”

Section 30. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 851 to subchapter VI of chapter 8 to read as follows:

“Section 851. Tax as Lien on Property.

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

(2) The lien imposed by subsection (1) of this section shall arise at the time that the assessment or demand has been made as provided in this Chapter, and shall continue until the liability for payment of the amount assessed or demanded is satisfied or extinguished.
(3) As against any mortgagee, pledgee, purchaser, judgment creditor, lienor or other encumbrance for value, the lien imposed by subsection (1) shall not be considered to have arisen or have any effect whatever unless notice of the lien has been filed. Against all subsequently arising interests, the lien shall have priority.

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

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

(b) Shall state (i) that the Authority claims a lien for the entire amount of tax asserted to be due, including applicable interest and penalties, and including any additional amounts that may become due after the notice is filed, and (ii) that the lien may
result in levy and sale of the property if the amounts
asserted to be due are not paid in full.

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

(a) Personal and household goods. All necessary
household furniture, cooking and eating utensils, and
all necessary wearing apparel, bedding, and provisions
for household use sufficient for four months;

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

(c) Certain Interests in land. All interests in
land, exclusive of leasehold interests, except where
such interests can be shown to have been acquired to
avoid attachment or execution with respect to the cause
of action to which the attachment or execution is
ordered, or where attachment or execution against such
interest in land is specifically permitted under a real
Section 31. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 852 to subchapter VI of chapter 8 to read as follows:

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

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

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

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

(4) A tax warrant shall:

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

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

   (c) state that the Authority claims a lien for
the entire amount of tax asserted to be due, including
applicable interest and penalties;
(d) order the person on whom it is served to reveal all property in his possession, custody or control that belongs to the taxpayer and the extent of his own interest therein; and to reveal the amount and kind of property of the taxpayer that, to the best of his knowledge, is in the possession, custody or control of others;

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

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

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

Section 32. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 853 to subchapter VI of chapter 8 to read as follows:
"Section 853. Surrender of property subject to levy, penalty and notice.

(1) Upon receipt of a tax warrant issued pursuant to section 852, any person in possession or control of property subject to levy under a tax warrant shall immediately surrender the property or discharge the obligation to the CEO; but not that part of the property that is already the subject of a bona fide attachment, execution, levy or other similar process.

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

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

Section 33. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 854 to subchapter VI of chapter 8 to read as follows:
“Section 854. Notice of sale; redemption.

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

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

(3) No sale of imperishable property shall be held until after the expiration of thirty (30) days from the date of the levy thereon, provided that perishable property may be sold immediately after seizure without
notice of the sale. The CEO shall make special efforts pursuant to rules and regulations to give notice of the sale to persons with a particular interest in special property, and, apart from the requirements stated above, shall advertise the sale in a manner appropriate to the kind of property to be sold.

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

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

Section 34. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 855 to subchapter VI of chapter 8 to read as follows:

“Section 855. Sale; delivery of bill of sale;
disposition of unsold portion.

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

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

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

(4) The foregoing notwithstanding, stocks, bonds, certificates of deposit, promissory notes or other securities which have a specific value or prevailing market price may be sold by the Authority at a private sale at a price not lower than the specific price or prevailing market price, or may otherwise be liquidated to their cash value in accordance with the regulations promulgated by the CEO. No such liquidation may occur sooner than the date scheduled for the sale as stated in the notice.”
Section 35. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 856 to subchapter VI of chapter 8 to read as follows:

"Section 856. Proceeds of levy and sale.
(1) Money realized by levy or sale under this act shall be first applied against the expenses of the proceedings;
(2) The amount remaining, if any, then shall be applied to the liability for the tax, interest and penalties for which the levy was pursued;
(3) Except as provided in subsection (4) of this section, the balance, if any, shall be returned to the taxpayer or the person legally entitled thereto and a receipt obtained;
(4) If, before the sale, any person having an interest in or lien upon the property files with the Authority notice of his interest or lien, the Authority shall withhold any excess, pending a determination of the rights of the respective parties to it by a court of competent jurisdiction."

Section 36. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new subchapter VII to chapter 8 to be entitled “Record Keeping and Information Collection"
Section 37. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 861 to subchapter VII of chapter 8 to read as follows:

“Section 861. Accounts and Records.

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

(2) If any accounts, documents, or records referred to subsection (1) are not in English, the CEO may, by notice in writing, require the person keeping the accounts, documents, or records to provide, at the person’s expense, a translation into English by a translator approved by the CEO.”

Section 38. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 862 to subchapter VII of chapter 8 to read as follows:

“Section 862. Power to Enter and Search.

(1) For the purposes of administering a revenue law, the CEO or a revenue officer authorized by the CEO, in writing, for the purposes of this section—
(a) must have, upon presentation of a warrant issued by a court of competent jurisdiction, full and free access to any premises, place, property, book, record, or data storage device;

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

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

(d) may retain any accounts, documents, books, or records seized under paragraph (c) for as long as they may be required for determining a taxpayer’s tax liability or for any proceeding under a revenue law; and

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

(2) A revenue officer is not entitled to enter or remain on any premises or place if, upon request by the owner or lawful occupier, the officer is unable to
produce the CEO’s written authorization permitting the
officer to exercise powers under subsection (1).

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

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

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

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

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

(8) This section has effect notwithstanding-

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

(b) any contractual duty of confidentiality.”

Section 39. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 863 to subchapter VII of chapter 8 to read as follows:

“Section 863. Administrative Summons.

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

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

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

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

(2) If a notice served under subsection (1) requires
the production of accounts, books, documents, or records

(including in electronic form), it is sufficient if such
accounts, books, documents, or records are described in
the notice with reasonable certainty.

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

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

(5) This section has effect notwithstanding—

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

(b) any contractual duty of confidentiality.”

Section 40. Title 54 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 864 to
subchapter VII of chapter 8 to read as follows:

“Section 864. Audit of Taxpayer’s Tax Affairs.
(1) The CEO may select any taxpayer for an audit of the taxpayer’s tax affairs for the purpose of a revenue law having regard to—

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

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

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

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

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

(3) An audit of a taxpayer’s tax affairs may be conducted for the purposes of more than one revenue law.

Section 41. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 865 to subchapter VII of chapter 8 to read as follows:

“Section 865. Issue of Taxpayer Identification Numbers.”
(1) The CEO may, for the purposes of identification and cross-checking, require a taxpayer to apply for a Taxpayer Identification Number.

(2) An application for a Taxpayer Identification Number must be—

(a) in the prescribed form;

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

(c) lodged in the prescribed manner.

(3) If a person has applied for a Taxpayer Identification Number under subsection (1) and the CEO is satisfied that the applicant’s identity has been established, the CEO must issue a Taxpayer Identification Number to the applicant by written notice.

(4) The CEO must refuse an application under this section—

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

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

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

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

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

Section 42. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 866 to subchapter VII of chapter 8 to read as follows:

“Section 866. Cancellation of Taxpayer Identification Number.

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

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

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

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

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

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

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

Section 43. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 867 to subchapter VII of chapter 8 to read as follows:

“Section 867. Quotation of Taxpayer Identification Number.

The CEO may require a taxpayer to state the taxpayer’s Taxpayer Identification Number in any tax return, notice, or other document used for the purposes of any revenue law.”

Section 44. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new subchapter VIII to chapter 8 to be entitled “Representatives”

Section 45. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 871 to subchapter VIII of chapter 8 to read as follows:

“Section 871. Liabilities and Obligations of Representatives.

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

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

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

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

(5) Nothing in subsection (3) prevents a representative paying an amount on behalf of a taxpayer that has priority over the revenue payable by the taxpayer.
(6) If there are two or more representatives of a taxpayer, the duties or obligations referred to in this section apply jointly and severally to the representatives but may be discharged by any of them. (7) Nothing in this section relieves a taxpayer from performing any duties or obligations imposed on the taxpayer under a revenue law that the representative of the taxpayer has failed to perform. (8) The amount that a representative is liable for under subsection (4) is treated as if it were tax payable by the representative for the purposes of Subchapters V and VI, and section 891.”

Section 46. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 872 to subchapter VIII of chapter 8 to read as follows:

“Section 872. Liability for Tax Payable by a Company Left with Insufficient Assets. (1) This section applies if an arrangement has been entered into with the intention of rendering a company unable to satisfy a current or future tax liability under a revenue law. (2) Subject to subsection (3), if this section applies, every person who was a director or controlling shareholder of the company at the time the arrangement
was entered into is jointly and severally liable for the
tax liability of the company.

(3) The amount that a person is liable for under
subsection (2) is treated as if it were tax payable by
the person for the purposes of Subchapters V and Vi, and
section 891.

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

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

(b) the director satisfies the CEO that, at the
time the arrangement was entered into—

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

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

(5) For the purposes of this section, a controlling
shareholder of a company is any person who beneficially
holds, either alone or together with an associate or
associates—
(a) more than fifty per cent (50%) of the voting rights in the company;

(b) more than fifty per cent (50%) of the rights to dividends; or

(c) more than fifty per cent (50%) of the rights to capital.”

Section 47. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new subchapter IX to chapter 8 to be entitled “Rulings”

Section 48. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 881 to subchapter IX of chapter 8 to read as follows:

“Section 881. Binding Public Rulings.

(1) The CEO may make a public ruling in accordance with section 882 setting out the CEO’s interpretation on the application of a revenue law.

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

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

Section 49. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 882 to subchapter IX of chapter 8 to read as follows:

“Section 882. Making a Public Ruling.

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

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

(3) A public ruling applies from the date specified in the ruling and if no date is specified, from the date of publication in the gazette identified in subsection (1).

Section 50. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 883 to subchapter IX of chapter 8 to read as follows:


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

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

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

(a) if subsection (1) applies, from the date specified in the notice of withdrawal and if no date is
specified, from the date notice of the withdrawal is published in the gazette; or

(b) if subsection (2) applies, from the date of application of the inconsistent legislation or public ruling.

(4) A public ruling that has been withdrawn in whole or in part—

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

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

Section 51. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 884 to subchapter IX of chapter 8 to read as follows:

“Section 884. Binding Private Rulings.

(1) Subject to section 885, the CEO shall, upon application in writing by a taxpayer, issue to the taxpayer a private ruling setting out the CEO’s position regarding the application of a revenue law to a transaction entered into, or proposed to be entered into, by the taxpayer.

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

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

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

Section 52. Title 54 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 885 to
subchapter IX of chapter 8 to read as follows:

“Section 885. Refusing an Application for a Private
Ruling.

(1) The CEO may refuse an application for a private
ruling if—

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

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

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

(d) the application is frivolous or vexatious;

(e) the arrangement to which the application
relates has not been carried out and there are
reasonable grounds to believe that it will not be carried out;
(f) the applicant has not provided the CEO with sufficient information to make a private ruling; or
(g) in the opinion of the CEO, it would be unreasonable to comply with the application having regard to the resources needed to comply and any other matters the CEO considers relevant, such as disadvantage to other taxpayers.

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

Section 53. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 886 to subchapter IX of chapter 8 to read as follows:

“Section 886. Making a Private Ruling.
(1) The CEO must make a private ruling unless section 885 applies.
(2) The CEO makes a private ruling by serving written notice of the ruling on the applicant.
(3) The CEO may make a private ruling on the basis of assumptions about a future event or other matter as considered appropriate.
(4) A private ruling must set out the matter ruled on identifying-
(a) the taxpayer;
(b) the revenue law relevant to the ruling;

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

(d) the arrangement to which the ruling relates;

and

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

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

(6) The making of a private ruling is not a tax decision for the purposes of this Chapter.”

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

“Section 887. Withdrawal of a Private Ruling.

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

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

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

(a) if subsection (1) applies, from the date specified in the notice of withdrawal; or
(b) if subsection (2) applies, from the date of application of the inconsistent legislation or public ruling.

(4) A private ruling that has been withdrawn—

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

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

(5) A decision to withdraw a private ruling is not a tax decision for the purposes of this Chapter.”

Section 55. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 888 to subchapter IX of chapter 8 to read as follows:

“Section 888. Publication of Private Rulings.

The CEO shall include in the gazette or other publication referred to in section 882(1) an edited version of a binding private ruling issued to a taxpayer. The edited version must not disclose the identity of the taxpayer.”

Section 56. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new subchapter X to chapter 8 to be entitled “Interest and Administrative Penalties”
Section 57. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 891 to subchapter X of chapter 8 to read as follows: 

"Section 891. Late Payment Interest.

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

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

(3) Late payment interest payable by a person-

(a) in respect of tax withheld by the person under Chapter 1 or 3 of this Title from a payment made by the person; or

(b) in respect of an amount referred to in section 843(7), 844(14), or 871(8) payable by the person, is borne personally by the person and is not recoverable from any other person.

(4) Late payment interest payable under this section is simple interest.
(5) Late payment interest payable under this section is treated as tax payable by a taxpayer for the purposes of Subchapter V and sections 871.

(6) Late payment interest payable under this section is in addition to any penalty imposed under this Subchapter or any sanction imposed under Subchapter XI in respect of the same act or omission.”

Section 58. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 892 to subchapter X of chapter 8 to read as follows:

“Section 892. Penalty for Failure to File a Tax Return or Lodge Other Document.

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

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

(b) in any other case, for a penalty of $10 for each day of default.

(2) A taxpayer served with a notice of assessment by the CEO under section 821 is liable for a penalty of 25 percent of the tax assessed (taking into account any
subsection amendment of the assessment) in addition to
the penalty imposed under subsection (1)(a).

(3) For the purposes of subsection (1)(b), a person
ceases to be in default at the time the document is
received by the CEO.”

Section 59. Title 54 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 893 to
subchapter X of chapter 8 to read as follows:

“Section 893. Penalty for Failure to Pay Tax By Due
Date.

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

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

(3) The reference to “tax” in subsection (1) does not
include penalty.”

Section 60. Title 54 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 894 to
subchapter X of chapter 8 to read as follows:

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“Section 894. Penalty for Failure to Maintain Proper Records.

A taxpayer who fails to maintain accounts, documents, or records as required under a revenue law is liable—

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

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

Section 61. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 895 to subchapter X of chapter 8 to read as follows:

“Section 895. Penalty for Making False or Misleading Statement.

(1) This section applies to a person—

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

(b) the tax liability of any person computed on the basis of the statement is less than it would have been if the statement had not been false or misleading.
(the difference being referred to as the "tax shortfall").

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

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

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

(3) No penalty is payable under subsection (2) if—

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

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

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

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

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

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

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

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

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

Section 62. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 896 to subchapter X of chapter 8 to read as follows:

“Section 896. Collection of Penalty.

(1) A liability for penalty is calculated separately with respect to each section imposing penalty under this Subchapter.

(2) If a penalty has been paid under this Title and the CEO institutes a prosecution under Subchapter XI in respect of the same act or omission, the CEO must refund
the amount of the penalty paid, and no penalty is
payable unless the prosecution is withdrawn.

(3) The CEO must—

(a) make an assessment of penalty imposed under
this Subchapter; and

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

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

(5) The CEO may, upon application under subsection (4)
or on the CEO’s own motion, remit, in whole or in part,
any penalty payable by a person.”

Section 63. Title 54 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new subchapter XI
to chapter 8 to be entitled “Taxation Offenses”

Section 64. Title 54 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 901 to
subchapter XI of chapter 8 to read as follows:

“Section 901. Offense for Failure to File Tax Return.

(1) A taxpayer who, without reasonable excuse, fails
to file a tax return by the due date is guilty of an
offense.
(2) Penalty: A person convicted of an offense under this section shall be subject to a fine not exceeding $500, or, if a natural person, imprisoned for not more than six months, or both.”

Section 65. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 902 to subchapter XI of chapter 8 to read as follows:

“Section 902. Offense for Failure to Comply with Obligations under this Chapter.

(1) A person is guilty of an offense—

(a) who, without reasonable cause, fails to—

(i) comply with section 843;

(ii) comply with a notice served on the person under section 844;

(iii) provide security as required under section 846; 

(iv) provide facilities and assistance as required by section 862(4); or 

(v) to comply with a notice under section 863; or

(b) knowing that a certificate has been issued under section 847(2) leaves or attempts to leave FSM without paying the tax due or making an arrangement satisfactory to the CEO for payment.
(2) Penalty: A person convicted of an offense under this section shall be subject to a fine not exceeding $500, or, if a natural person, imprisoned for not more than six months, or both.

Section 66. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 903 to subchapter XI of chapter 8 to read as follows:

"Section 903. Offense for Failure to Maintain Proper Records.

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

(2) Penalty: A taxpayer convicted of an offense under subsection (1) shall be subject to a fine not exceeding $1,000, or, if a natural person, imprisoned for not more than one year, or both.

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

Section 67. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 904 to subchapter XI of chapter 8 to read as follows:

"Section 904. Offenses for Improper Use of Taxpayer Identification Number."
(1) A person who uses a false Taxpayer Identification Number on any tax return or document prescribed or used for the purposes of a revenue law is guilty of an offense.

(2) Penalty: A person convicted of an offense under subsection (1) shall be subject to a fine not exceeding $1,000, or, if a natural person, imprisoned for not more than one year, or both.

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

(4) A person who fails to apply for cancellation of the person’s Taxpayer identification Number as required under section 866 is guilty of an offense.

(5) Penalty: A person convicted of an offense under subsection (4) shall be subject to a fine not exceeding $500.”

Section 68. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 905 to subchapter XI of chapter 8 to read as follows:

“Section 905. Offense for Making False or Misleading Statement.”
(1) A person is guilty of an offense if the person knowingly or recklessly—

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

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

(2) Penalty: A person convicted of an offense under this section shall be subject to a fine not exceeding $50,000, or, if a natural person, imprisoned for not more than one year, or both.

(3) Section 895(5) applies in determining whether a person has made a statement to a revenue officer.”

Section 69. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 906 to subchapter XI of chapter 8 to read as follows:

“Section 906. Offense for Obstruction of Revenue Officer.

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

(2) Penalty: A person convicted of an offense under this section shall be subject to a fine not exceeding $1,000, or, if a natural person, imprisoned for not more than one year, or both.”
Section 70. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 907 to subchapter XI of chapter 8 to read as follows:

“Section 907. Offense for Aiding or Abetting a Taxation Offense.
A person who aids, abets, assists, incites, or induces another person to commit an offense under a revenue law (referred to as the “principal offense”) is guilty of an offense and is liable for the same penalty as imposed for the principal offense.”

Section 71. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 908 to subchapter XI of chapter 8 to read as follows:

“Section 908. Offense Relating to Seized Goods or Temporarily Closed Premises.
(1) A person is guilty of an offence if the person-
(a) takes any goods that have been seized under section 845 or that are the subject of a warrant under subchapter VI or that are in premises the subject of an order under section 848; or
(b) before or at or after any seizure of goods under section 845 or proceedings under subchapter VI, staves, breaks or destroys any goods, or documents relating to any goods, to prevent-
(i) the seizure or the securing of the goods; or
(ii) the proof of an offence; or
(c) enters premises the subject of an order under section 848 without the permission of the CEO.

(2) Penalty: A person convicted of an offense under this section shall be subject to a fine not exceeding $1,000, or, if a natural person, imprisoned for not more than one year, or both.”

Section 72. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 909 to subchapter XI of chapter 8 to read as follows:

“Section 909. Offenses by Revenue Officers.

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

(2) Penalty: A person convicted of an offense under subsection (1) shall be subject to a fine not exceeding $50,000 or imprisoned for not more than one year, or both.
(3) A revenue officer who enters into or acquiesces in any agreement to—
(a) do any act or thing;
(b) abstain from doing any act or thing;
(c) permit or connive in the doing of any act or thing; or
(d) conceal any act or thing, whereby the National or a State Government is or may be defrauded of revenue, or that is contrary to the provisions of a revenue law or to the proper execution of the officer’s duty is guilty of an offense.

(4) Penalty: A person convicted of an offense under subsection (3) shall be subject to a fine not exceeding $50,000 or imprisoned for not more than one year, or both.

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

(6) Penalty: A person convicted of an offense under subsection (5) shall be subject to a fine not exceeding $50,000, or, if a natural person, imprisoned for not more than one year, or both.
(7) A person who proposes or enters into any agreement with a revenue officer in order to induce the officer to—

(a) do any act or thing;

(b) abstain from doing any act or thing;

(c) permit or connive in the doing of any act or thing; or

(d) conceal any act or thing, whereby the National or a State Government is or may be defrauded of revenue, or that is contrary to the provisions of a revenue law or to the proper execution of the officer's duty is guilty of an offense.

(8) Penalty: A person convicted of an offense under subsection (7) shall be subject to a fine not exceeding $50,000, or, if a natural person, imprisoned for not more than one year, or both.

(9) For the purposes of this section, a revenue officer includes any person employed or engaged by the Authority in any capacity and includes a director or former director of the Board, a member or former member of a committee of the Board, a person invited to a Board or committee meeting, or a former officer or employee of the Authority.”
Section 73. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 910 to subchapter XI of chapter 8 to read as follows:

"Section 910. Offenses by Companies.

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

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

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

(2) Subsection (1) does not apply to a person if—

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

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

Section 74. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 911 to subchapter XI of chapter 8 to read as follows:

"Section 911. Failure to Comply with a Court Order.

(1) Upon conviction of a person of an offense under this subchapter, and the failure of the person to comply
with a court order, the person shall be subject to the provisions and penalties of Section 119 of Title 4 of this code.”

Section 75. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new subchapter XII to chapter 8 to be entitled “Forms and Notices”

Section 76. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 921 to subchapter XII of chapter 8 to read as follows:

“Section 921. Forms and Notices; Authentication of Documents

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

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

(3) A notice or other document issued, served, or given by the CEO under a revenue law is sufficiently authenticated if the name or title of the CEO, or authorized officer, is printed, stamped, or written on the document.”
Section 77. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 922 to subchapter XII of chapter 8 to read as follows:

"Section 922. Manner of Lodging Documents.

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

Section 78. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 923 to subchapter XII of chapter 8 to read as follows:

"Section 923. Service of Notices.

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

(a) personally served on the person;

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

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

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

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

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

(5) The reference to “person” in this section includes
the representative of the person.”

Section 79. Title 54 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 924 to
subchapter XII of chapter 8 to read as follows:

“Section 924. Electronic Returns and Notices.

(1) The CEO may establish and operate a procedure
(referred to as the “electronic notice system”) for
electronic filing of tax returns or other documents to
the CEO and electronic service of notices and other
documents by the CEO and, for this purpose, the CEO may
provide written conditions for-

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

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

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

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

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

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

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

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

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

(4) If a tax return or other document of a registered
user has been transmitted to the computer account of the
CEO using the authentication code assigned to the
registered user—

(a) either with or without the authority of the
registered user; and

(b) before the registered user has applied to the
CEO for cancellation of the authentication code,
the return or other document is, for the purposes of the
revenue law under which it has been filed, presumed to
be filed by the registered user unless the registered
user proves to the contrary.

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

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

(7) Section 825 shall apply to—

(a) an electronic tax assessment served by the
CEO on the basis that the reference in section 825(b) to
a copy of a notice of a tax assessment includes a
certificate under the hand of the CEO identifying the
tax assessment, and stating the authentication code of
the registered user and the device involved in the
production and transmission of the electronic tax
assessment; and

(b) an electronic tax return furnished by a
registered user on the basis that the reference in
section 825(c) to a copy of a tax return includes a
certificate under the hand of the CEO identifying the
tax return, and stating the authentication code of the
registered user and the device (if known) involved in
the production and transmission of the electronic tax
return.

(8) A person furnishing an electronic tax return or
other document on behalf of another person must not
divulge or disclose the contents of the return or
document, or a copy thereof, without the prior written
consent of the CEO.
(9) A person who fails to comply with subsection (8) is guilty of an offense.

(10) Penalty: A person convicted of an offense under subsection (8) shall be subject to a fine not exceeding $500 or imprisoned for not more than six months, or both.”

Section 80. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 925 to subchapter XII of chapter 8 to read as follows:

“Section 925. Due Date for Documents and Tax Payments. If the due date for—
(a) filing a tax return, application, notice, or other document;
(b) the payment of tax; or
(c) taking any other action under a revenue law, is a Saturday, Sunday, or public holiday, the due date is the next following business day.”

Section 81. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new subchapter XIII to chapter 8 to be entitled “Final Provisions”

Section 82. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 931 to subchapter XIII of chapter 8 to read as follows:

“Section 931. Regulations.”
(1) The Secretary shall, subject to approval of the
President, prescribe and have printed reasonable
regulations for the enforcement of this Chapter and such
regulations shall have force and effect of law if they
are not in conflict with the express provisions of this
Chapter or other laws of the FSM.

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

Section 83. Title 54 of the Code of the Federated States of
Micronesia is hereby amended by adding a new section 932 to
subchapter XIII of chapter 8 to read as follows:

"Section 932. Transitional.

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

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

(3) If the period for any application, appeal, or
prosecution had expired before this Chapter came into
force, nothing in this Chapter shall be construed as
enabling the application, appeal, or prosecution to be
made under this Chapter by reason only of the fact that
a longer period is specified in this Chapter.
(4) Any tax liability that arose before this Chapter came into force may be recovered under this Chapter, but without prejudice to any action already taken for the recovery of the tax.”

Section 84. Effective Date. This Act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 3/26/10  
Introduced by: /s/ Joe N. Suka 
Joe N. Suka  
(by request)