

AN ACT

Further amending sections 4,9,17 and 20 of TSL 5-119 subsection 4, as amended by 191-04, subsection 1, 2-93-06, subsection 1, 3-96-01 (4), 5-00-27, subsection 1, (4), 5-00-34 and 9-08-01 by increasing the sales tax, alcoholic and beverage tax, imposing new administrative compliance and installment agreement, imposing additional penalties, application of the increase in the sales tax and taxes on alcoholic beverage tax to the Debt Relief Fund, and for other purposes.

Be it enacted by the Chuuk State Legislature:

1 Section. 1. Amendment. Section 4 of TSL 5-119, subsection 4, as amended by CSL Nos.
2 191-04, subsection, 1, 2-93-06, subsection 1, 3-96-01, subsection 1 (4), 5-00-27, subsection 1
3 (4), 5-00-34 and 9-08-01 is further amended to read as follows:

4 "Section 4. Sales Tax Imposition. There is hereby levied a tax on first sale in the
5 State of Chuuk of all tangible items, except gasoline and unprocessed or unpackaged
6 items as follows:

7 1. Tobacco at the rate of one hundred percent (100%) of the sales
8 price;

9 2. Cigarettes and cigars:

10 a) at a rate of two dollar per pack of 20 cigarettes;

11 b) at a rate of 10 cents per one cigarettes:

12 c) at a rate of 10 cents per cigar.

13 3. Fuel taxes:

14 a) Diesel, kerosene at the rate of ten cents(\$.10) per gallon;

15 b) Jet A One at the rate of ten cents (\$.10) per gallon;

16 4. a) Luxury items at the rate of twenty percent (20%) of the
17 sales price;

18 b) For the purpose of section 4, "Luxury items" includes but
19 not limited to, of the following items, except locally produced items:

20 (i) Perfumery, cosmetics, and toiletries, including cologne
21 and other toilet waters, articles of perfumery, whether sachets or otherwise, and
22 all preparations used a applications to the hair of skin, lipsticks, pomades, powder
23 and other toilet preparations not having medicinal properties;

1 (ii) Jewelry, ornamental pieces, including but not limited
2 to rings, necklaces and bracelets made of materials, stones or metals that may or
3 may not be precious, designed for personal adornment;

4 (iii) Electronic entertainment devices consisting of or
5 including but not limited to radios, stereo, tape, players, compact disc (CD)
6 players, digital video disc (DVD), Media Player or MP3, MP4, MPS or any
7 Media Player upgrades, desk top or laptop or notebook computers or any
8 combinations thereof, whether for home, commercial or automotive usage,
9 televisions, video cassette recorders or any combination thereof, cameras, video
10 or digital cameras and camcorders, and any kind of game consoles;

11 5. All other items at a rate of six percent of the sales price.

12 Section 2. Amendment. Section 9 of TSL 5-119, subsection 9, as amended by CSL 2-
13 93-06, 5-00-27, subsection 1 (4) 5-00-34 and 6-01-22 is further amended to read as follows:

14 "Section 9. A tax on sale of alcoholic beverages within the State of Chuuk is
15 imposed at the following rates:

- 16 1. Wholesale at the rate of fifty (50%) percent of the selling price;
- 17 2. Retail at the rate of fifty (50%) percent of the selling price;

18 Section 3. Amendment. Section 17 of TSL 5-119, subsection 17, as amended by CSL 2-
19 94-15, subsection 2 and CSL 10-09-13 is further amended to read as follows:

20 "Section 17. Penalties: Civil and Criminal.

21 1. Sellers of items listed in Sections 4, 9 and 10, and providers of
22 services listed in section 11 of this Act who knowingly and willfully fails to
23 collect or timely pay the taxes levied by this Act shall be charged a penalty of five
24 percent (5%) per month on the balance of the taxes due and unpaid.

25 2. Sellers of items listed in Sections 4, 9 and 10 of this Act and
26 providers of services listed in Section 11 of this Act, who knowingly, willfully
27 and unlawfully fail to keep and provide to the Department of Administrative
28 Services accurate records and supporting documents, which record shall be for the
29 period including those taxes not paid for the past five years pursuant to Section 15
30 of this Act shall be guilty of felony and shall, upon conviction, be imprisoned for

1 a period of not less than six (6) months but not more than three (3) years and/or
2 fined not less than \$5,000 for each fiscal quarter such failure occurs.

3 3. A carrier violating Sections 11(5) and 16 of this Act shall be guilty
4 of a felony and shall upon conviction, be imprisoned for a period of not less than
5 six (6) months but not more than three (3) years and/or fined not less than \$5,000
6 for each fiscal quarter such failure occurs.

7 4. Any person, company or corporation who knowingly, willfully,
8 and unlawfully violates or refuses to comply with any regulation duly issued by
9 the Department of Administrative Services for the Enforcement of this Act shall,
10 upon conviction thereof, be fined not less than \$500, or imprisoned for not more
11 than 90 days, or both. Such penalties are in addition to those which may be due
12 under Subsections (1) through (3) and (5) of this Section.

13 5. Any person, company or corporation who knowingly and willfully
14 refuses to permit the examination required by Section 23 of this Act shall, upon
15 conviction thereof, be fined not less than \$5,000, or imprisoned for not more than
16 one year, or both.”

17 6. Interference with administration of tax laws. Whoever forcibly or
18 by bribe, threat or other corrupt practice obstructs or impedes or attempts to
19 obstruct or impede the due administration of this chapter, upon conviction thereof,
20 shall be fined not less than \$500 nor more than \$10,000 or imprisoned for not less
21 than six months for more than one year, or both such fine and imprisonment,
22 together with costs of prosecution.

23 7. False and fraudulent statement. In addition to such other liabilities
24 and penalties as may be prescribed by law or subsections 1 to 6 of this section,
25 any individual or person who willfully makes or subscribes to any tax return,
26 statement or other document which contains or is verified by a written declaration
27 that it is made under the penalties of perjury, and which he does not believe to be
28 true and correct as to every material matter or with the intent to evade or defeat
29 the payment or collection of any tax, or knowing that the probable consequences
30 of this chapter will be to evade or defeat the payment or collection of any tax,
31 removes, conceals or releases property on which the levy is authorized or which is

1 liable for payment of tax, or aids or causes the accomplishment of any of the
2 foregoing, is guilty of a felony and, upon conviction thereof, shall be fined not
3 less than \$3,000 but not more than \$10,000, or imprisoned not less than one (1)
4 year but not more than three (3) years, or both such fine and imprisonment.

5 8. Any person, company or corporation who knowingly, willfully and
6 unlawfully refuses to comply with the final notice of demand to pay any and all
7 taxes due including interests, its business establishment shall be closed and open
8 only until execution of a closing agreement or installment agreement as approved
9 by the Attorney General.”

10 Section 4. A new section is hereby inserted after TSL 5-119, subsection 17, as amended
11 by CSL 2-94-15, subsection 2, to read as follows:

12 “Section 17- A. Installment payments of taxes; installment agreements.

13 1. Whenever justified by the circumstances, the Director may enter
14 into written agreement with any taxpayer wherein the taxpayer admits conclusive
15 liability for the state amount of taxes due and agrees to make monthly installment
16 payments thereof according to the terms of the agreement, but not for a period
17 longer than 18 months. The Director shall include, as permitted and as set forth in
18 rules and regulations, penalties charge not to exceed the rate set out in section 17.

19 2. The agreement provided for in this section shall be identified as an
20 installment agreement. If entered into after any court acquires jurisdiction of the
21 matter, the agreement shall be part of a stipulated order or judgment disposing of
22 the case.

23 3. At the time of entering into an installment agreement, the Director
24 shall require the taxpayer to furnish any form of security as maybe defined by the
25 Rules and Regulations, the Director shall cause a notice of lien to be files and may
26 pursue any remedies available to the state. Once this installment agreement has
27 been agreed by the taxpayer and the Director, no penalties shall be imposed
28 during the period of the agreement unless the taxpayer fails to comply with the
29 agreement, then the penalty shall be computed prior to the consummation of the
30 installment agreement.

31 4. An installment agreement is conclusive as to liability for payment

1 of the amount of taxes specified therein, but does not preclude the assessment of
2 any additional tax.

3 5. After entering into an installment agreement, no further attempts to
4 enforce payment of the tax shall be made except when, in the judgment of the
5 Director, there are indications that the installments may not be paid. If
6 installment payments are not made on or before the times specified in the
7 agreement, if any other condition contained in the agreement is not met, or if the
8 taxpayer does not pay any other taxes as they fall due, the Director may proceed
9 to enforce collection of the tax as if the agreement had not been made or may
10 proceed against the security furnished as provided in section 6.”

11 Section 5. A new section is hereby inserted after TSL 5-119, subsection 17, as amended
12 by CSL 2-94-15, subsection 2, to read as follows:

13 Section 17-B. Compromise of taxes; closing agreements.

14 1. If, after the assessment has been issued, the Director has reasonable
15 doubt as for the taxpayer's liability for payment of the tax, he may compromise, pursuant
16 to rules and regulations implementing the provisions of this section, the asserted liability
17 by entering into a written agreement with the taxpayer. Such agreement shall be
18 identified as a closing agreement, and is subject to the proper approval of the Director
19 and the Attorney General of the Government of Chuuk.

20 2. If the closing agreement is reached after the court acquires jurisdiction
21 of the matter, it shall be made part of a stipulated order or judgment disposing of the case.

22 3. As a condition of the closing agreement, the Director may require,
23 pursuant to rules and regulations that the taxpayer furnish security for payment of any
24 taxes due.

25 4. A closing agreement is conclusive as to the taxpayer's liability or non-
26 liability for payment of assessed taxes covering the periods stated in the agreement and,
27 except upon a showing of fraud, malfeasance, misrepresentation or concealment of a
28 material fact.

29 a. The closing agreement shall not be modified by any officer,
30 employee or agent of the government of Chuuk, and

31 b. In any suit, action or proceeding, the closing agreement or any

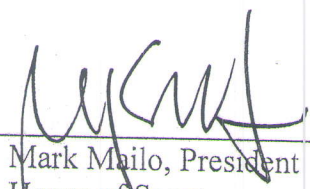
determination, assessment, collection, payment, abatement, refund or credit made in accordance therewith shall not be annulled, modified, set aside, or disregarded.

Section 6. Section 20 of TSL No. 5-119 is hereby amended to read as follows:

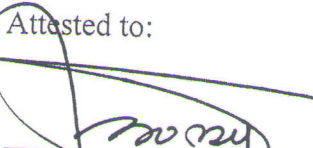
“Section 20. Disposition of revenue: General Fund. All taxes, penalties and fines collected pursuant to this Act shall be deposited into the General Fund of the State of Chuuk. Provided, that any increases in the collection reflected as a result of the increase of sales, and alcoholic and beverage taxes shall be deposited to the Debt Relief Fund.”

Section 7. Effective Date. This Act shall take effect upon approval by the Governor, or upon it's otherwise becoming law without such approval.

Signed by:


Mark Mailo, President
House of Senate
Chuuk State Legislature

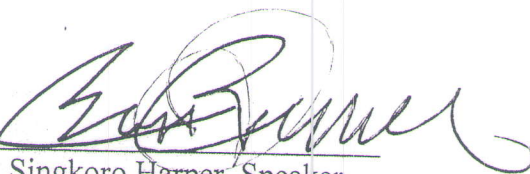
Attested to:


Songkinita Bossy, Chief Clerk
House of Senate
Chuuk State Legislature

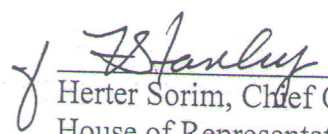
Date:

June 18, 2010

Signed by:


Singkoro Harper, Speaker
House of Representatives
Chuuk State Legislature

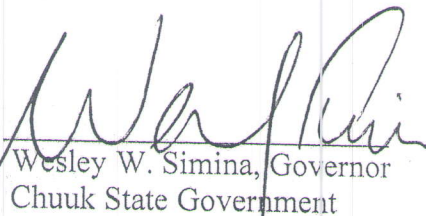
Attested to:


Herter Sorim, Chief Clerk
House of Representatives
Chuuk State Legislature

Date:

6/24/10

Approved by:


Wesley W. Simina, Governor
Chuuk State Government

Date:

June 30, 2010

History

SB No. 10-23,HD1

Introduced by:

.SCR No.: 10-1R-3S-02

Adopted:

Alonso Cholymay (by request)

May 07, 2010