

## **CHAPTER 8**

### **Revenue Administration**

**[FOR REFERENCE ONLY]**

**Editor's note:** This version of chapter 8 of this title is included here for reference only, as at the time of this codification the provisions of section 87, that set forth codified section 934 of PL 17-50, as amended by section 1 of PL 17-83, made this Act null and void.

Section 1 of PL 17-83 states:

Section 1. Section 934 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 17-50, is hereby amended to read as follows:

§ 934. If any of the four states of the Federated States of Micronesia have not passed into law value added tax legislation as of midnight July 19, 2013, this act is null and void.

PL 17-83 was signed into law by Vice President Alik L. Alik on April 19, 2013.

## **SUBCHAPTER I**

### **General Provisions**

**[FOR REFERENCE ONLY]**

### **SECTIONS**

- § 801. Short title.**
- § 802. Definitions.**
- § 803. References to terms used in other laws.**

## **SUBCHAPTER II**

### **Tax Returns**

**[FOR REFERENCE ONLY]**

### **SECTIONS**

- § 806. Extension of time to file a tax return.**

**§ 807. Tax return duly made.**

### **SUBCHAPTER III**

#### **Tax Decisions**

**[FOR REFERENCE ONLY]**

#### **SECTIONS**

- § 810. Self-assessments.**
- § 811. Assessment of person who fails to file a tax return.**
- § 812. Advanced tax assessments.**
- § 813. Amendment of tax assessments.**
- § 814. Validity of tax decisions.**
- § 815. Correctness of tax decisions.**
- § 816. Rectification of mistakes.**

### **SUBCHAPTER IV**

#### **Objections and Appeals**

**[FOR REFERENCE ONLY]**

#### **SECTIONS**

- § 819. Objection to tax decision.**
- § 820. Judicial review.**
- § 821. General provisions relating to objections and appeals.**

### **SUBCHAPTER V**

#### **Recovery of Unpaid Tax**

**[FOR REFERENCE ONLY]**

## **SECTIONS**

- § 824. Payment of tax.**
- § 825. Extension of time to pay tax.**
- § 826. Trustees, liquidators, and executors.**
- § 827. Recovery of unpaid tax from third party.**
- § 828. Seizure of goods.**
- § 829. CEO may require security.**
- § 830. Taxpayer leaving the FSM.**
- § 831. Temporary closure of business.**

### **SUBCHAPTER VI**

#### **Levy and Execution**

**[FOR REFERENCE ONLY]**

## **SECTIONS**

- § 834. Tax as lien on property.**
- § 835. Warrant for collection of tax; issuance; effect; levy and sale.**
- § 836. Surrender of property subject to levy; penalty and notice.**
- § 837. Notice of sale; redemption.**
- § 838. Sale; delivery of bill of sale; disposition of unsold portion.**
- § 839. Proceeds of levy and sale.**

### **SUBCHAPTER VII**

#### **Record Keeping and Information Collection**

**[FOR REFERENCE ONLY]**

## **SECTIONS**

- § 842. Accounts and records.**
- § 843. Power to enter and search.**

- § 844. **Administrative summons.**
- § 845. **Audit of taxpayer's tax affairs.**
- § 846. **Issue of Taxpayer Identification Numbers.**
- § 847. **Cancellation of Taxpayer Identification Number.**
- § 848. **Quotation of Taxpayer Identification Number.**

## **SUBCHAPTER VIII**

### **Representatives**

**[FOR REFERENCE ONLY]**

#### **SECTIONS**

- § 851. **Liabilities and obligations of representatives.**
- § 852. **Liability for tax payable by a company left with insufficient assets.**

## **SUBCHAPTER IX**

### **Rulings**

**[FOR REFERENCE ONLY]**

#### **SECTIONS**

- § 855. **Binding public rulings.**
- § 856. **Making a public ruling.**
- § 857. **Withdrawal of a public ruling.**
- § 858. **Binding private rulings.**
- § 859. **Refusing an application for a private ruling.**
- § 860. **Making a private ruling.**
- § 861. **Withdrawal of a private ruling.**
- § 862. **Publication of private rulings.**

## **SUBCHAPTER X**

### **Interest and Administrative Remedies**

**[FOR REFERENCE ONLY]**

#### **SECTIONS**

- § 865. Late payment interest.**
- § 866. Penalty for failure to file a tax return or lodge other document.**
- § 867. Penalty for failure to pay tax by due date.**
- § 868. Penalty for failure to maintain proper records.**
- § 869. Penalty for making false or misleading statement.**
- § 870. Collection of penalty.**

## **SUBCHAPTER XI**

### **Taxation Offenses**

**[FOR REFERENCE ONLY]**

#### **SECTIONS**

- § 873. Offense for failure to file tax return.**
- § 874. Offense for failure to comply with obligations under this chapter.**
- § 875. Offense for failure to maintain proper records.**
- § 876. Offenses for improper use of Taxpayer Identification Number.**
- § 877. Offense for making false or misleading statements.**
- § 878. Offense for obstruction of revenue officer.**
- § 879. Offense for aiding or abetting a taxation offense.**
- § 880. Offense relating to seized goods or temporarily closed premises.**
- § 881. Offenses by revenue officers.**
- § 882. Offenses by companies.**
- § 883. Failure to comply with a court order.**

## **SUBCHAPTER XII**

### **Forms and Notices**

**[FOR REFERENCE ONLY]**

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#### **SECTIONS**

- § 886. Forms and notices; authentication of documents.**
- § 887. Manner of lodging documents.**
- § 888. Service of notices.**
- § 889. Electronic returns and notices.**
- § 890. Due date for documents and tax payments.**

## **SUBCHAPTER XIII**

### **Final Provisions**

**[FOR REFERENCE ONLY]**

#### **SECTIONS**

- § 893. Regulations.**
- § 894. Transition.**
- § 895. Commencement of administration.**
- § 896. Nullification.**

## **SUBCHAPTER I**

### **General Provisions**

**[FOR REFERENCE ONLY]**

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Section 1 of PL 17-83 states:

Section 1. Section 934 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 17-50, is hereby amended to read as follows:

§ 934. If any of the four states of the Federated States of Micronesia have not passed into law value added tax legislation as of midnight July 19, 2013, this act is null and void.

### **§ 801. Short title.**

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

**Source:** PL 17-50 § 2.

**Editor's note:** Section 1 of PL 17-50 designated sections 801, 802, and 803 of chapter 8 as subchapter I entitled General Provisions. Sections 2, 3, and 4 of PL 17-50 repealed their current sections and enacted new sections as set forth below. Sections 5 and 6 of PL 17-50 repealed sections 804 and 805, respectively.

### **§ 802. Definitions.**

Wherever used in this chapter, unless the subject matter, context, or sense otherwise

requires:

- (1) “Arrangement” means any contract, agreement, plan, or understanding whether expressed or implied and whether or not enforceable in legal proceedings.
- (2) “Associate” has the meaning in section 515 of this title.
- (3) “Authority” means the FSM Unified Revenue Authority established under section 711 of this title.
- (4) “Board” means the Board of Directors of the Authority appointed under chapter 7 of this title.
- (5) “CEO” means the Chief Executive Officer appointed under chapter 7 of this title.
- (6) “FSM” means the Federated States of Micronesia.
- (7) “Installment of tax” means an installment of tax payable under chapter 5 of this title.
- (8) “Late payment interest” means late payment interest imposed under section 865 of this title.
- (9) “Net profit tax” means net profit tax imposed under chapter 5 of this title.
- (10) “Objection decision” means the decision referred to in section 819(5) of this title.
- (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 the presumptive tax imposed under chapter 5 of this title.
- (15) “Private ruling” means a ruling made under sections 858, 859, 860, 861, and 862 of this title.
- (16) “Public ruling” means a ruling made under sections 855, 856, and 857 of this title.
- (17) “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 the 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 the 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 the 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 826 of this title 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.
- (18) “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.
- (19) “Revenue officer” means the CEO and any officer of the Authority appointed under section 732 of chapter 7 of this title.



- (20) “Secretary” means the Secretary of the FSM Department of Finance and Administration.
- (21) “Self-assessment” means a self-assessment of net profits tax, presumptive tax, or VAT.
- (22) “Self-assessment return” means a tax return required to be furnished by a self-assessment taxpayer.
- (23) “Self-assessment taxpayer” means a person liable for net profit tax, presumptive tax, or VAT.
- (24) “State” means a State of the FSM.
- (25) “Tax” means any tax, duty, or penalty imposed under a revenue law, and includes an installment of tax and withholding tax.
- (26) “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 subchapter III of this chapter, including an amended assessment; and
  - (d) an assessment of penalty under section 870 of this title.
- (27) “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 of this chapter.
- (28) “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 of this title, 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 5 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.
- (29) “Tax return” means a return required to be filed under a revenue law.
- (30) “Tax warrant” means a warrant issued under section 835 of this title.
- (31) “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 5 of this title.

(32) “Taxpayer Identification Number” means a Taxpayer Identification Number issued under section 846 of this title.

(33) “VAT” means valued added tax imposed under a revenue law.

(34) “Wages and salaries tax” means the tax imposed under section 121 of this title.

(35) “Withholding tax” means the amount that a payer is required to withhold from a payment as tax.

**Source:** PL 17-50 § 3.

**Editor’s note:** The reference in subsection (2) of this section refers to a section 515 of this title and the references to chapter 5 of this title in subsections (7), (9), (14), (28)(d), and (31)(b) refer to a chapter 5 that does not exist. C.B. No. 17-16, the Net Profit Tax Act, proposed to add a new chapter 5 of this title. Thus, the Revenue Administration Act, P.L. 17-50, makes multiple references to a chapter 5, since the plan was to pass the Net Profit Tax Act as soon as all four FSM states adopted a VAT. Since all four FSM states did not adopt a VAT, the Net Profit Tax Act was never enacted and chapter 5 of this title 54 remains reserved.

### **§ 803. References to terms used in other laws.**

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.

**Source:** PL 17-50 § 4.

**Editor’s note:** Section 1 of PL 17-50 designated sections 801, 802, and 803 of chapter 8 as subchapter I entitled General Provisions. Sections 2, 3, and 4 of PL 17-50 repealed their current sections and enacted new sections as set forth below. Sections 5 and 6 of PL 17-50 repealed sections 804 and 805, respectively.

## **SUBCHAPTER II**

### **Tax Returns**

**[FOR REFERENCE ONLY]**

**Editor’s note:** This version of chapter 8 of this title is included here for reference only, as at the time of this codification the provisions of section 87, that set forth codified section 934 of PL 17-50, as amended by section 1 of PL 17-83, made this Act null and void.

Section 1 of PL 17-83 states:

Section 1. Section 934 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 17-50, is hereby amended to read as follows:

§ 934. If any of the four states of the Federated States of Micronesia have not passed into law value added tax legislation as of midnight July 19, 2013, this act is null and void.

Section 7 of PL 17-50 added a subchapter II of chapter 8 entitled Tax Returns.

### **§ 806. 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) of this section 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.

**Source:** PL 17-50 § 8.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 811 to 806 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 807. 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.

**Source:** PL 17-50 § 9.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 812 to 807 to allow all of the sections in this chapter to have eight hundred section numbers.

## SUBCHAPTER III

### Tax Decisions

#### [FOR REFERENCE ONLY]

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Section 10 of PL 17-50 added a subchapter III of chapter 8 entitled Tax Decisions.

#### **§ 810. Self-assessments.**

(1) 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.

(2) Reserved.

**Source:** PL 17-50 § 11.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 821 to 810 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 811. 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) of this section 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
- (e) the due date for payment of the tax payable under the notice.

**Source:** PL 17-50 § 12.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 822 to 811 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 812. Advanced tax assessments.**

(1) 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 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, the FSM without filing a return as required under the revenue law for the tax period.

(2) The CEO must serve a taxpayer assessed under subsection (1) of this section 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 811(2) of this title.

(3) An assessment made under subsection (1) of this section can be amended under section 813 of this title so that the taxpayer is assessed in respect of the whole of the tax period to which the assessment under subsection (1) of this section relates.

**Source:** PL 17-50 § 13.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 823 to 812 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 813. 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) of this section for the CEO to make an amendment in accordance with subsection (1) of this section 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) of this section 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) of this section, if a notice of assessment (referred to as the "original assessment") has been amended under subsection (1) of this section, 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) of this section 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) of this section) 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.

**Source:** PL 17-50 § 14.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 824 to 813 to allow all of the sections in this chapter to have eight hundred section numbers.

#### **§ 814. Validity of tax decisions.**

(1) 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, 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:

- (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.

(2) Reserved.

**Source:** PL 17-50 § 15.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 825 to 814 to allow all of the sections in this chapter to have eight hundred section numbers.

#### **§ 815. Correctness of tax decisions.**

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

(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.

**Source:** PL 17-50 § 16.

**Cross-reference:** The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 826 to 815 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 816. Rectification of mistakes.**

If the CEO is satisfied that an order made or document issued by the CEO under a revenue 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.

**Source:** PL 17-50 § 17.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 827 to 816 to allow all of the sections in this chapter to have eight hundred section numbers.

## **SUBCHAPTER IV**

### **Objections and Appeals**

**[FOR REFERENCE ONLY]**

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Section 18 of PL 17-50 added a subchapter IV of chapter 8 entitled Objections and Appeals.

### **§ 819. 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 813 of this title, 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) of this section, 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.

**Source:** PL 17-50 § 19.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 831 to 819 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 820. Judicial review.**

- (1) A person dissatisfied with an objection decision may institute an action for review in a court of competent jurisdiction in the FSM. Such action is commenced by filing a petition, within 60 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) of this section.

(3) The payment of the amount of tax in dispute, in whole or part, after the filing of a petition under subsection (1) of this section 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 to comply with the decree 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 of this chapter.

**Source:** PL 17-50 § 20.

**Cross-reference:** The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 832 to 820 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 821. General provisions relating to objections and appeals.**

(1) In any proceeding under this chapter:

(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 820 of this title, 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; and

(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) of this section, the tax due under a tax assessment is payable notwithstanding that an objection has been lodged or an action for judicial review under section 820 of this title 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 a tax in dispute under a tax assessment up to a maximum of fifty percent (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.

**Source:** PL 17-50 § 21.

**Cross-reference:** The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 833 to 821 to allow all of the sections in this chapter to have eight hundred section numbers.

## SUBCHAPTER V

### Recovery of Unpaid Tax

[FOR REFERENCE ONLY]

**Editor's note:** This version of chapter 8 of this title is included here for reference only, as at the time of this codification the provisions of section 87, that set forth codified section 934 of PL 17-50, as amended by section 1 of PL 17-83, made this Act null and void.

Section 1 of PL 17-83 states:

Section 1. Section 934 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 17-50, is hereby amended to read as follows:

§ 934. If any of the four states of the Federated States of Micronesia have not passed into law value added tax

legislation as of midnight July 19, 2013, this act is null and void.

Section 22 of PL 17-50 added a subchapter V of chapter 8 entitled Recovery of Unpaid Tax.

### **§ 824. 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 Governments, as the case may be.
- (3) In any suit under subsection (2) of this section, 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.

**Source:** PL 17-50 § 23.

**Cross-reference:** The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 841 to 824 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 825. 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.

**Source:** PL 17-50 § 24.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 842 to 825 to allow all of the sections in this chapter to have eight hundred section numbers.

## **§ 826. Trustees, liquidators, and executors.**

(1) In this section:

(a) “trustee” means:

- (i) a liquidator of a company being wound up;
- (ii) a receiver for debenture holders who has taken possession of any assets of a company;
- (iii) a trustee in bankruptcy;
- (iv) a mortgagee in possession;
- (v) an executor of a deceased estate; or
- (vi) any other person holding a similar office or acting in a similar capacity; and

(b) “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) of this section.

(4) Subject to subsection (5) of this section, 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) of this section;

(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) of this section, 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) of this section.

(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) of this section is treated as if it were tax payable by the trustee as taxpayer for the purposes of this subchapter, subchapter VI of this chapter, and section 851 of this title.

**Source:** PL 17-50 § 25.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 843 to 826 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 827. 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 of this chapter.

(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) of this section 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) of this section 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 20 percent of the amount of each payment of wages or salaries.

(6) If a person served with a notice under subsection (3) of this section 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) of this section, the CEO may, by notice in writing:

- (a) accept the notification and cancel or amend the notice issued under subsection (3) of this section;
- 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) of this section 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) of this section are treated as if they were tax payable by the payer as taxpayer for the purposes of this subchapter, subchapter VI of this chapter, and section 851 of this title.

**Source:** PL 17-50 § 26.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 844 to 827 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 828. Seizure of goods.**

(1) In addition to any other right of levy and execution set forth in subchapter VI of this chapter and the powers of forfeiture under subchapter IV of chapter 2 of this title, 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 the import duty in respect of the import of those goods has not been paid or the CEO or authorized officer has reasonable grounds to believe that such VAT or import duty 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) of this section, 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) of this section.

(4) The CEO or authorized officer is not required to serve a notice under subsection (3) of this section 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) of this section applies, the CEO or authorized officer may serve a notice under subsection (3) of this section 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) of this section to be delivered to the person on whom a notice under subsection (3) of this section 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 duty in respect of the import of the goods.

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

(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) of this section 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 duty in respect of the import of the goods;

(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 or import duty 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 851 of this title.

**Source:** PL 17-50 § 27.

**Editor's note:** The reference to subchapter IV of chapter 2 of this title in subsection (1) of this section is retained even though a subchapter IV of chapter 2 of this title does not exist. See editor's note to section 802 of this chapter.

The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 845 to 828 to allow all of the sections in this chapter to have eight hundred section numbers.



**§ 829. 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.

**Source:** PL 17-50 § 28.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 846 to 829 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 830. Taxpayer leaving the FSM.**

(1) If the CEO has reasonable grounds to believe that a taxpayer may leave the 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 the 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) of this section 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 the FSM.

**Source:** PL 17-50 § 29.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 847 to 830 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 831. Temporary closure of business.**

(1) If a taxpayer fails to pay VAT or tax withheld from wages and salaries on or before the due date, the CEO or a 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) of this section, 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) of this section 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) of this section, 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 831 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) of this section ceases to have effect and the CEO must immediately arrange for removal of the notice referred to in subsection (4) of this section.

**Source:** PL 17-50 § 30.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 848 to 831 to allow all of the sections in this chapter to have eight hundred section numbers.

## SUBCHAPTER VI

### Levy and Execution

[FOR REFERENCE ONLY]

**Editor's note:** This version of chapter 8 of this title is included here for reference only, as at the time of this codification the provisions of section 87, that set forth codified section 934 of PL 17-50, as amended by section 1 of PL 17-83, made this Act null and void.

Section 1 of PL 17-83 states:

Section 1. Section 934 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 17-50, is hereby amended to read as follows:

§ 934. If any of the four states of the Federated States of Micronesia have not passed into law value added tax legislation as of midnight July 19, 2013, this act is null and void.

Section 31 of PL 17-50 added a subchapter VI of chapter 8 entitled Levy and Execution.

**§ 834. 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) of this section 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 the 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 property mortgage statute or real property deed of trust statute for the

State in which the interest is located.

**Source:** PL 17-50 § 32.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 851 to 834 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 835. Warrant for collection of tax; issuance; effect; levy and sale.**

(1) If, within 30 days' time following filing of the notice of lien pursuant to section 834 of this title, 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 834(5) of this title, 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.

**Source:** PL 17-50 § 33.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 852 to 835 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 836. Surrender of property subject to levy; penalty and notice.**

(1) Upon receipt of a tax warrant issued pursuant to section 835 of this title, 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; PROVIDED, HOWEVER, that the property or part of the property, that is already the subject of a *bona fide* attachment, execution, levy or other similar process need not be surrendered.

(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.

**Source:** PL 17-50 § 34.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 853 to 836 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 837. Notice of sale; redemption.**

(1) As soon as practicable after the levy and seizure of the property pursuant to section 835 of this title, 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 839 of this title, 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, HOWEVER, 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.

**Source:** PL 17-50 § 35.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 854 to 837 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 838. 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.

**Source:** PL 17-50 § 36.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 855 to 838 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 839. Proceeds of levy and sale.**

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

**Source:** PL 17-50 § 37.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 856 to 839 to allow all of the sections in this chapter to have eight hundred section numbers.

## **SUBCHAPTER VII**

### **Record Keeping and Information Collection**

**[FOR REFERENCE ONLY]**

**Editor's note:** This version of chapter 8 of this title is included here for reference only, as at the time of this codification the provisions of section 87, that set forth codified section 934 of PL 17-50, as amended by section 1 of PL 17-83, made this Act null and void.

Section 1 of PL 17-83 states:

Section 1. Section 934 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 17-50, is hereby amended to read as follows:

§ 934. If any of the four states of the Federated States of Micronesia have not passed into law value added tax legislation as of midnight July 19, 2013, this act is null and void.

Section 38 of PL 17-50 added a subchapter VII of chapter 8 entitled Record Keeping and Information Collection.

### **§ 842. Accounts and records.**

(1) Every taxpayer must, for the purposes of a revenue law, maintain in the 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 in subsection (1) of this section 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.

**Source:** PL 17-50 § 39.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 861 to 842 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 843. 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) of this subsection;

(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, afford 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) of this subsection 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) of this section.

(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) of this section 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) of this section 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) of this section 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.

**Source:** PL 17-50 § 40.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 862 to 843 to allow all of the sections in this chapter to have eight hundred section numbers.

#### **§ 844. 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) of this section 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) of this section to be given under 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.

**Source:** PL 17-50 § 41.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 863 to 844 to allow all of the sections in this chapter to have eight hundred section numbers.

#### **§ 845. 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) of this section.

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

**Source:** PL 17-50 § 42.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 864 to 845 to allow all of the sections in this chapter to have eight hundred section numbers.

#### **§ 846. 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) of this section 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 14 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.

**Source:** PL 17-50 § 43.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 865 to 846 to allow all of the sections in this chapter to have eight hundred section numbers.

#### **§ 847. 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 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.

**Source:** PL 17-50 § 44.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 866 to 847 to allow all of the sections in this chapter to have eight hundred section numbers.

#### **§ 848. 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.

**Source:** PL 17-50 § 45.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 867 to 848 to allow all of the sections in this chapter to have eight hundred section numbers.

## **SUBCHAPTER VIII**

### **Representatives**

**[FOR REFERENCE ONLY]**

**Editor's note:** This version of chapter 8 of this title is included here for reference only, as at the time of this codification the provisions of section 87, that set forth codified section 934 of PL 17-50, as amended by section 1 of PL 17-83, made this Act null and void.

Section 1 of PL 17-83 states:

Section 1. Section 934 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 17-50, is hereby amended to read as follows:

§ 934. If any of the four states of the Federated States of Micronesia have not passed into law value added tax legislation as of midnight July 19, 2013, this act is null and void.

Section 46 of PL 17-50 added a subchapter VIII of chapter 8 entitled Representatives.

### **§ 851. 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) of this section, any tax that, by virtue of subsection (1) of this section, 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) of this section, 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) of this section 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) of this section is treated as if it were tax payable by the representative for the purposes of subchapters V and VI of this chapter, and section 865 of this title.

**Source:** PL 17-50 § 47.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were

also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 871 to 851 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 852. 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) of this section, 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) of this section is treated as if it were tax payable by the person for the purposes of subchapters V and VI of this chapter, and section 865 of this title.

(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 percent (50%) of the voting rights in the company;

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

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

**Source:** PL 17-50 § 48.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 872 to 852 to allow all of the sections in this chapter to have eight hundred section numbers.

## SUBCHAPTER IX

## Rulings

### [FOR REFERENCE ONLY]

**Editor's note:** This version of chapter 8 of this title is included here for reference only, as at the time of this codification the provisions of section 87, that set forth codified section 934 of PL 17-50, as amended by section 1 of PL 17-83, made this Act null and void.

Section 1 of PL 17-83 states:

Section 1. Section 934 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 17-50, is hereby amended to read as follows:

§ 934. If any of the four states of the Federated States of Micronesia have not passed into law value added tax legislation as of midnight July 19, 2013, this act is null and void.

Section 49 of PL 17-50 added a subchapter IX of chapter 8 entitled Rulings.

#### **§ 855. Binding public rulings.**

- (1) The CEO may make a public ruling in accordance with section 856 of this title setting out the CEO's interpretation on the application of a revenue law.
- (2) A public ruling made in accordance with section 856 of this title is binding on the CEO until withdrawn.
- (3) A public ruling is not binding on a taxpayer.

**Source:** PL 17-50 § 50.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 881 to 855 to allow all of the sections in this chapter to have eight hundred section numbers.

#### **§ 856. 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) of this section.

**Source:** PL 17-50 § 51.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 882 to 856 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 857. Withdrawal of a public ruling.**

(1) The CEO may withdraw a public ruling, in whole or part, by publishing notice of the withdrawal in the gazette identified in section 856 of this title.

(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) of this section 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) of this section 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.

**Source:** PL 17-50 § 52.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 883 to 857 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 858. Binding private rulings.**

(1) Subject to section 859 of this title, 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.

-  
**Source:** PL 17-50 § 53.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 884 to 858 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 859. 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.

**Source:** PL 17-50 § 54.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 885 to 859 to allow all of the sections in this chapter to have eight

hundred section numbers.

**§ 860. Making a private ruling.**

- (1) The CEO must make a private ruling unless section 859 of this title 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.

**Source:** PL 17-50 § 55.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 886 to 860 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 861. 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) of this section applies, from the date specified in the notice of withdrawal; or

(b) if subsection (2) of this section 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.

**Source:** PL 17-50 § 56.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 887 to 861 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 862. Publication of private rulings.**

The CEO shall include in the gazette or other publication referred to in section 856(1) of this title an edited version of a binding private ruling issued to a taxpayer. The edited version must not disclose the identity of the taxpayer.

**Source:** PL 17-50 § 57.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 888 to 862 to allow all of the sections in this chapter to have eight hundred section numbers.

## **SUBCHAPTER X**

### **Interest and Administrative Remedies**

**[FOR REFERENCE ONLY]**

**Editor's note:** This version of chapter 8 of this title is included here for reference only, as at the time of this codification the provisions of section 87, that set forth codified section 934 of PL 17-50, as amended by section 1 of PL 17-83, made this Act null and void.

Section 1 of PL 17-83 states:

Section 1. Section 934 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 17-50, is hereby amended to read as follows:

§ 934. If any of the four states of the Federated States of Micronesia have not passed into law value added tax legislation as of midnight July 19, 2013, this act is null and void.

Section 58 of PL 17-50 added a subchapter X of chapter 8 entitled Interest and Administrative Penalties.

**§ 865. 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) of this section 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 is borne personally by the person and is not recoverable from any other person:

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

(b) in respect of an amount referred to in sections 826(7), 827(14), or 851(8) of this title payable by the 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 of this chapter and section 851 of this title.

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

**Source:** PL 17-50 § 59.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 891 to 865 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 866. 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 one percent (1%) of the amount of tax payable under the return for each month or part of a month that the return remains unfiled; or
  - (b) in any other case, for a penalty of ten dollars (\$10) for each day of default.
- (2) A taxpayer served with a notice of assessment by the CEO under section 811 of this title is liable for a penalty of twenty five percent (25%) of the tax assessed (taking into account any subsequent amendment of the assessment) in addition to the penalty imposed under subsection (1)(a) of this section.
- (3) For the purposes of subsection (1)(b) of this section, a person ceases to be in default at the time the document is received by the CEO.

**Source:** PL 17-50 § 60.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 892 to 866 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 867. Penalty for failure to pay tax by due date.**

- (1) A taxpayer who fails to pay a 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) of this section is in addition to interest payable under section 865 of this title for late payment of tax. The ceiling on the amount of penalty payable under subsection (1) of this section does not apply to or take into account interest payable under section 865 of this title.
- (3) The reference to "tax" in subsection (1) of this section does not include penalty.

**Source:** PL 17-50 § 61.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 893 to 867 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 868. Penalty for failure to maintain proper records.**

(1) 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.

(2) [Reserved].

**Source:** PL 17-50 § 62.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 894 to 868 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 869. 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) whose statement results in the tax liability of any person computed on the basis of the statement being 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) of this section, 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 (50%) of the tax shortfall; or

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

(3) No penalty is payable under subsection (2) of this section 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) of this section prevents the imposition of late payment interest under section 865 of this title 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.

**Source:** PL 17-50 § 63.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 895 to 869 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 870. Collection of penalty.**

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

(2) If a penalty has been paid under this title and the CEO institutes a prosecution under subchapter XI of this chapter 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) of this section or on the CEO's own motion, remit, in whole or in part, any penalty payable by a person.

**Source:** PL 17-50 § 64.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 896 to 870 to allow all of the sections in this chapter to have eight hundred section numbers.

## SUBCHAPTER XI

### Taxation Offenses

**[FOR REFERENCE ONLY]**

**Editor's note:** This version of chapter 8 of this title is included here for reference only, as at the time of this codification the provisions of section 87, that set forth codified section 934 of PL 17-50, as amended by section 1 of PL 17-83, made this Act null and void.

Section 1 of PL 17-83 states:

Section 1. Section 934 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 17-50, is hereby amended to read as follows:

§ 934. If any of the four states of the Federated States of Micronesia have not passed into law value added tax legislation as of midnight July 19, 2013, this act is null and void.

Section 65 of PL 17-50 added a subchapter XI of chapter 8 entitled Taxation Offenses.

#### **§ 873. 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 five hundred dollars (\$500), or, if a natural person, imprisoned for not more than six months, or both.

**Source:** PL 17-50 § 66.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 901 to 873 to allow all of the sections in this chapter to have eight hundred section numbers.



**§ 874. 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 826 of this title;
    - (ii) comply with a notice served on the person under section 827 of this title;
    - (iii) provide security as required under section 829 of this title;
    - (iv) provide facilities and assistance as required by section 826(4) of this title; or
    - (v) comply with a notice under section 844 of this title; or
  - (b) who, knowing that a certificate has been issued under section 830(2) of this title, leaves or attempts to leave the 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 five hundred dollars (\$500), or, if a natural person, imprisoned for not more than six months, or both.

**Source:** PL 17-50 § 67.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 902 to 874 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 875. 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) of this section shall be subject to a fine not exceeding one thousand dollars (\$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) of this section is subject to the immediate revocation of any existing license to do business in the FSM that has been issued to the taxpayer.

**Source:** PL 17-50 § 68.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated

by chapter 9 of this title. This section was therefore renumbered from 903 to 875 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 876. 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) of this section shall be subject to a fine not exceeding one thousand dollars (\$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 847 of this title is guilty of an offense.

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

**Source:** PL 17-50 § 69.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 904 to 876 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 877. 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 fifty thousand dollars (\$50,000), or, if a natural person, imprisoned for not more than one year, or both.

(3) Section 869(5) of this title applies in determining whether a person has made a statement to a revenue officer.

**Source:** PL 17-50 § 70.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 905 to 877 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 878. 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 one thousand dollars (\$1,000), or, if a natural person, imprisoned for not more than one year, or both.

**Source:** PL 17-50 § 71.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 906 to 878 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 879. 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.

**Source:** PL 17-50 § 72.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 907 to 879 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 880. Offense relating to seized goods or temporarily closed premises.**

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

(a) takes any goods that have been seized under section 828 of this title or that are the subject of a warrant under subchapter VI of this chapter or that are in premises the subject of an order under section 831 of this title; or

(b) before, or at, or after, any seizure of goods under section 828 of this title or proceedings under subchapter VI of this chapter, 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 831 of this title 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 one thousand dollars (\$1,000), or, if a natural person, imprisoned for not more than one year, or both.

**Source:** PL 17-50 § 73.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 908 to 880 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 881. 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) of this section shall be subject to a fine not exceeding fifty thousand dollars (\$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 do any act or thing, abstain from doing any act or thing, permit or connive in the doing of any act or thing, or 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) of this section shall be subject to a fine not exceeding fifty thousand dollars (\$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) of this section shall be subject to a fine not exceeding fifty thousand dollars (\$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 do any act or thing, abstain from doing any act or thing, permit or connive in the doing of any act or thing, or 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) of this section shall be subject to a fine not exceeding fifty thousand dollars (\$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.

**Source:** PL 17-50 § 74.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 909 to 881 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 882. 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) of this section 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.

**Source:** PL 17-50 § 75.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 910 to 882 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 883. Failure to comply with a court order.**

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.

**Source:** PL 17-50 § 76.

Cross-reference: Section 119 of title 4 (Judiciary) of this code is on Contempt.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 911 to 883 to allow all of the sections in this chapter to have eight hundred section numbers.

## **SUBCHAPTER XII**

### **Forms and Notices**

#### **[FOR REFERENCE ONLY]**

**Editor's note:** This version of chapter 8 of this title is included here for reference only, as at the time of this codification the provisions of section 87, that set forth codified section 934 of PL 17-50, as amended by section 1 of PL 17-83, made this Act null and void.

Section 1 of PL 17-83 states:

Section 1. Section 934 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 17-50, is hereby amended to read as follows:

§ 934. If any of the four states of the Federated States of Micronesia have not passed into law value added tax legislation as of midnight July 19, 2013, this act is null and void.

Section 77 of PL 17-50 added a subchapter XII of chapter 8 entitled Forms and Notices.

#### **§ 886. 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) of this section 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.

**Source:** PL 17-50 § 78.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 921 to 886 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 887. Manner of lodging documents.**

Except as provided in section 924 of this title, 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.

**Source:** PL 17-50 § 79.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 922 to 887 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 888. Service of notices.**

(1) Subject to section 889 of this title 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 the FSM; or
- (c) sent by registered post to the person's usual or last known address in the 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.

**Source:** PL 17-50 § 80.

**Editor’s note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 923 to 888 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 889. 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) of this section, 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) of this section, 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 either with or without the authority of the registered user, and 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) of this section, 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 815 shall apply to:

(a) an electronic tax assessment served by the CEO on the basis that the reference in section 815(1)(b) of this title 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 815(1)(c) of this title 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) of this section is guilty of an offense.

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

**Source:** PL 17-50 § 81.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 924 to 889 to allow all of the sections in this chapter to have eight hundred section numbers.

### **§ 890. Due date for documents and tax payments.**

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

- (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.

(2) Reserved.

**Source:** PL 17-50 § 82.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 925 to 890 to allow all of the sections in this chapter to have eight hundred section numbers.

## SUBCHAPTER XIII

### Final Provisions

#### [FOR REFERENCE ONLY]

**Editor's note:** This version of chapter 8 of this title is included here for reference only, as at the time of this codification the provisions of section 87, that set forth codified section 934 of PL 17-50, as amended by section 1 of PL 17-83, made this Act null and void.

Section 1 of PL 17-83 states:

Section 1. Section 934 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 17-50, is hereby amended to read as follows:

§ 934. If any of the four states of the Federated States of Micronesia have not passed into law value added tax legislation as of midnight July 19, 2013, this act is null and void.

Section 83 of PL 17-50 added a subchapter XIII of chapter 8 entitled Final Provisions.

#### **§ 893. 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 the 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.

**Source:** PL 17-50 § 84.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 931 to 893 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 894. Transition.**

(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.

**Source:** PL 17-50 § 85.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 932 to 894 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 895. Commencement of administration.**

Administration of this Act shall commence on the commencement of administration date of the Unified Revenue Authority Act as determined by section 769 of this title.

**Source:** PL 17-50 § 86.

**Editor's note:** The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 933 to 895 to allow all of the sections in this chapter to have eight hundred section numbers.

**§ 896. Nullification.**

If any of the four states of the Federated States of Micronesia have not passed into law value added tax legislation as of midnight July 19, 2013, this Act is null and void.

**Source:** PL 17-50 § 87; PL 17-83 § 1.

**Editor's note:** No section heading was included for section 934 in section 87 of PL 17-50. The section heading of Nullification has been used.

The sections of this chapter were numbered such that all of the sections were not numbered in the eight hundreds, but were also numbered in the nine hundreds. This created a problem because some of the nine hundred section numbers were already designated by chapter 9 of this title. This section was therefore renumbered from 934 to 896 to allow all of the sections in this chapter to have eight hundred section numbers.