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# **TITLE 12**

## **BUSINESS ASSOCIATIONS**

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- § 208. Right to sue for damages incurred through misrepresentation.

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**BUSINESS ASSOCIATIONS**

**TITLE 12  
BUSINESS ASSOCIATIONS**

**Chapter 1  
Corporations**

**Subchapter I  
General Provisions**

- § 101. Authority of President to grant corporate charters and establish public corporations.
- § 102. Scope and application of chapter; exceptions.
- § 103. Application for charter.
- § 104. Audits and inspections authorized.
- § 105. Use of the terms "cooperative" and "credit union" restricted.
- § 106. Enjoinder of violations.

**§ 101. Authority of President to grant corporate charters and establish public corporations.**

(a) The President may grant charters of incorporation for the establishment and functioning of business organizations, associations of persons for any lawful purpose other than pecuniary profit, cooperatives and credit unions.

(b) The President may create and establish public corporations subject to approval and consent of the Olbiil Era Kelulau.

**Source**

(Code 1966, § 1116.) 37 TTC § 1, modified.

**§ 102. Scope and application of chapter; exceptions.**

(a) The provisions of this chapter are applicable to every private corporation, profit or nonprofit, stock or non-stock, now existing or hereafter formed, and to the outstanding and future securities thereof, unless such corporation be expressly excepted from the operation thereof, or there be a special provision in relation to any class thereof inconsistent with some provision of this chapter, in which case the special provision prevails.

(b) The existence of corporations heretofore formed or existing shall not be affected

by the enactment of this chapter, nor by any change in the requirements for the formation of corporations, nor by amendment or repeal of the laws under which they were formed or created.

**Source**

(Code 1966, § 1134.) 37 TTC § 2.

**§ 103. Application for charter.**

(a) An association of persons seeking a charter as a corporation shall submit for the approval of the President articles of incorporation which shall provide at least the following information:

- (1) proposed name of the corporation;
- (2) principal office or place of business;
- (3) proposed duration;
- (4) purposes;
- (5) powers;
- (6) capitalization;
- (7) names of incorporators;
- (8) number of directors, which shall be not less than three, and proposed officers;
- (9) names of directors and officers to serve until first election;
- (10) provisions for management, if any;
- (11) provisions for voting by members;
- (12) provisions for shareholding, if any;
- (13) disposition of financial surplus;

(14) provisions for liquidation;

(15) provisions for amendment of articles of incorporation.

(b) In addition to articles of incorporation, persons seeking a charter as a corporation shall submit for the approval of the President proposed bylaws governing the operation of the corporation.

**Source**

(Code 1966, § 1118.) 37 TTC § 3, modified.

**Cross-reference**

For title on business and business regulation, see Title 11; for chapter on business licenses, see chapter 15 of Title 40 and for complete listing of licensing provisions in this Code, see index listing, LICENSES.

**§ 104. Audits and inspections authorized.**

(a) The President may appoint officers to audit and report on the accounts of corporations authorized to do business within the Republic. Such officers shall have the right at any and all times to inspect, examine and audit the books and accounts of such corporations.

(b) Any member of a nonprofit corporation shall have the right to inspect and examine the books and accounts of the corporation of which he is a member, provided that such inspection and examination shall be held at the place where such books and accounts are normally kept, and shall take place on weekdays during normal business hours in such a manner as not to interfere with usual conduct of business or corporate affairs.

**Source**

(Code 1966, § 1119.) 37 TTC § 4, modified.

**§ 105. Use of the terms "cooperative" and "credit union" restricted.**

No person, firm, corporation or association hereafter organized or doing business in the Republic shall be entitled to use the terms "cooperative" or "credit union" as part of its corporate name or other business name or title, or otherwise represent itself to the public to be a nonprofit cooperative association or a credit union or cooperative savings and loan association, unless it has complied with the provisions of this chapter, except as provided in section 102.

**Source**

(Code 1966, § 1117.) 37 TTC § 5, modified.

**§ 106. Enjoinder of violations.**

Violations of the provisions of this chapter or regulations promulgated hereunder are hereby declared to be enjoinable, and the Attorney General shall have the power to seek appropriate relief from such violations or from other corporate practices in violation of the law of the Republic or contrary to the public interest.

**Source**

(Code 1966, § 1135.) 37 TTC § 6, modified.

**Subchapter II  
Registrar of Corporations**

§ 121. Office created; duties.

§ 122. Authority to promulgate rules and regulations.

§ 123. Power to convene corporate meeting.

§ 124. Power to order production of records; penalty.

**§ 121. Office created; duties.**

There shall be in the Office of the Attorney General a Registrar of Corporations appointed by the President. The Registrar shall issue, receive, and hold as custodian all certificates, papers, statements, or other records or documents required by the provisions of this title or the rules or regulations promulgated hereunder to be distributed by, or filed with the national government. In addition, the Registrar shall perform such other duties as may from time to time be assigned to him by the President or the Attorney General.

**Source**

(Code 1966, § 1115(a).) 37 TTC § 51, modified.

**§ 122. Authority to promulgate rules and regulations.**

The Registrar, with the approval of the Attorney General and the President, shall have the power to prescribe such rules and regulations as are deemed advisable to administer and carry into effect the provisions of this title. Such rules and regulations shall have the force and

effect of law. The Registrar shall file a copy of such rules and regulations with the Clerk of Courts.

**Source**

(Code 1966, § 1115(b).) 37 TTC § 52, modified.

**§ 123. Power to convene corporate meeting.**

The Registrar may, when he deems it in the public interest, convene a special meeting of the members, board of directors, or officers of any corporation organized or existing under the provisions of this title, by giving notice, not less than 10 days prior to the date of such meeting, to the members, directors, or officers, as the case might be. Such notice shall state the purpose of the meeting and the subject or subjects to be discussed.

**Source**

(Code 1966, § 1115(c).) 37 TTC § 53, modified.

**§ 124. Power to order production of records; penalty.**

(a) In connection with the duties prescribed in this chapter the Registrar is authorized and empowered to order the production of books of account, papers and documents of any corporation or company authorized to do business within the Republic.

(b) Refusal, without a showing of good cause, to produce books of account, papers or documents within 30 days after an order for the production thereof shall be a misdemeanor punishable by a maximum fine of \$50.00, or, when the order is directed to an individual, imprisonment of such individual for a period not to exceed 90 days, or both.

**Source**

(Code 1966, § 115(d).) 37 TTC § 54, modified.



**Chapter 2**  
**Issuance of Securities**

- § 201. Definitions.
- § 202. Registration required.
- § 203. Method of registration.
- § 204. Contents of registration statement.
- § 205. Stop orders.
- § 206. Review of orders.
- § 207. Exemptions.
- § 208. Right to sue for damages incurred through misrepresentation.

**§ 201. Definitions.**

In this chapter, unless the context otherwise requires:

(a) "Issuer" means any person who issues or proposes to issue any security, except that:

(1) With respect to certificates of deposit, voting trust certificates, or collateral-trust certificates of interest or shares in an unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued; and

(2) With respect to certificates of interest or participation in oil, gas or mining titles or leases or in payments out of production under such titles or leases, there is not considered to be any "issuer."

(b) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(c) "Sale or sell" means every contract of sale or disposition of a security or interest in a security, for value.

(d) "Security" means any note, stock, treasury stock, bond, debenture, evidence of

indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or for some other specified period.

**Source**

71 TTC § 8, modified.

**§ 202. Registration required.**

It shall be unlawful for any person, directly or indirectly, to issue, sell, exchange or transfer any security, as defined in section 201 of this chapter, in the Republic unless or until such security has been registered with the Registrar of Corporations and approval of the registered security has been granted by the President.

**Source**

71 TTC § 1, modified.

**Cross-reference**

For statutory provisions on corporations and the Registrar of Corporations, see chapter 1 of this title.

**§ 203. Method of registration.**

Any security may be registered by filing a registration statement signed by each issuer, its principal executive officer or officers and the majority of its board of directors or persons performing similar functions, and in case the issuer is a noncitizen, as that term is defined in section 102 of Title 28 of this Code, by its duly authorized representative in the Republic; provided, that in the case of a security issued by a foreign government, the United States or any political subdivision thereof, the statement may be signed by the underwriter of such security.

**Source**

71 TTC § 2, modified.

**Commission Comment**

Title 28 is the Foreign Relations and Trade title of this Code.

**§ 204. Contents of registration statement.**

The registration statement, when relating to a security other than a security issued by a foreign government, the United States or any political subdivision thereof, shall contain the information the Registrar of Corporations by rule or regulation shall require for the protection of investors, and shall contain the approval of the President for the issuance, sale, exchange or transfer of such security.

**Source**

71 TTC § 3, modified.

**§ 205. Stop orders.**

The President may issue a stop order against any security transaction subject to this chapter if after approval of such transaction it appears that:

- (a) the registration statement includes any untrue statement of a material fact or omits to state any material fact necessary to make the statements therein not misleading; or
- (b) upon examination by the Registrar of Corporations of the books, records, practices and management of the issuer, material misrepresentations or misleading statements were made at the time of registration and approval under the circumstances prevailing at the time of examination.

**Source**

71 TTC § 4, modified.

**§ 206. Review of orders.**

- (a) Any person aggrieved by an order of the President may obtain review on the record upon which the order was based, by filing a petition for review in the Trial Division of the Supreme Court within 60 days of entry of such order, asking that it be modified or set aside.
- (b) The findings of the Registrar of Corporations as to facts, if supported by

evidence, shall be conclusive.

(c) The decision of the Trial Division shall be subject to review by the Appellate Division of the Supreme Court on appeal in accordance with law or rule.

**Source**

71 TTC § 5, modified.

**§ 207. Exemptions.**

(a) The provisions of this chapter shall not apply to the following classes of securities:

- (1) any security issued or guaranteed by the United States or the Republic or any political subdivision thereof.
- (2) any security issued by an entity organized and operated exclusively for religious, educational, benevolent, fraternal or charitable purposes and not for pecuniary profit, no part of the net earnings of which inures to the benefit of any person or individual.
- (3) certificates issued by a receiver or trustee in bankruptcy, with the approval of the court.
- (4) any security exchanged by the issuer with its existing security holders exclusively.
- (5) any security which is issued in exchange for one or more bona fide outstanding securities, claims or property interest or partly in exchange and partly for cash, when the terms and conditions of such issuance and exchange are approved by the President as to the fairness thereof.
- (6) any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace or any renewal thereof.

(b) The Registrar of Corporations may from time to time by rule and regulation, and subject to such terms and conditions as may be prescribed therein, add any class of securities exempted, if he finds that the enforcement of this chapter with respect to

such securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering.

**Source**

(P.L. No. 4C-15, §§ 1, 2.) 71 TTC § 6, modified.

**§ 208. Right to sue for damages incurred through misrepresentation.**

In the event any registration application contains a misrepresentation of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements not misleading, any person acquiring such security (unless it be proved that at the time of acquisition he knew of such misrepresentation or omission) may sue the issuer and every person who signed the registration application or any supporting document, or any officer or director of the issuer, for the recovery of such damages as shall represent the difference between the amount paid for the security and the value at the time of suit; provided however, that no such action shall be filed later than one year after the discovery of the misrepresentation or omission.

**Source**

71 TTC § 7, modified.

# **TITLE 40**

## **REVENUE AND TAXATION**

### **DIVISION 1**

#### **REVENUE**

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costs of litigation, including reasonable attorneys' fees. Before a resident may bring an action pursuant to this chapter, the resident must submit a written request to the Attorney General asking that the Attorney General bring a civil action. If the Attorney General fails to file a complaint within 60 days after receipt of the written request, the resident may thereafter bring a civil action pursuant to this section.

**Source**

RPPL 5-8 § 1(61)(e), modified.

**Notes**

Original legislation combined criminal and civil penalties in section. The Code Commission divided the legislation into the current sections 706 and 707 for clarity. Thus, the term "section" refers to both sections 706 and 707.

**DIVISION 2  
UNIFIED TAX ACT**

**Chapter 10  
General Provisions**

§ 1001. Short title.

§ 1002. Definitions.

**§ 1001. Short title.**

This division shall be known as the "Unified Tax Act."

**Source**

RPPL 1-63 § 101, modified.

**Notes**

Basilus v. ROP, 1 ROP Intrm. 417, 424 (1987).

**§ 1002. Definitions.**

In this division:

- (a) "Alcoholic Beverage" means any beverage intended for human consumption which contains at least one percent alcohol by volume. Alcoholic beverage includes, but is not limited to, those beverages commonly known as beer, wine, and liquor, but it does not include any substance which is issued pursuant to an order made by a licensed doctor, nurse or health worker for the treatment of an illness.
- (b) "Beer" means any beverage which contains not more than 15 percent alcohol by volume and which is made by a process of alcohol fermentation of grains, hops or malts.
- (c) "Bureau" means the Bureau of Revenue, Customs and Taxation in the Ministry of Administration.
- (d) "Business" means any commercial activity carried on by sole proprietors, partnerships, corporations, trusts, joint ventures, or other entity however organized, whether continuous or short term. The Director of the Bureau of Revenue, Customs and Taxation, however, may exclude by regulation, casual sales from the definitions of "business". One

who qualifies as an employee under this section shall not be considered a business.

(e) "Coin-activated amusement device" means any game or machine which may be activated by the insertion of a coin, or which was originally designed to be so activated, and which is used for amusement purposes.

(f) "Commercial activity" means any form of activity carried on for the purpose, in whole or in part, of economic gain, including, but not limited to manufacturing, processing, hotel keeping, retailing, boardering, selling, transporting, the practice of a profession or trade, the exercise of a skill and the exploitation of personal assets. "Commercial activity" does not include the exercise of one's status as an employee.

(g) "Deficiency" means the excess of the amount of tax imposed by this division over the sum of the tax payments for the year of the deficiency and refunds due the taxpayer.

(h) "Director" means the Director of the Bureau of Revenue, Customs and Taxation in the Ministry of Administration, or his designee.

(i) "Employee" means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

(j) "Employer" means any person who pays another in consideration for the rendition of personal services unless the payor is able to demonstrate to the satisfaction of the Director that each such person who was paid for services was an independent contractor. The term "employer" also includes the national and state governments as well as all departments and agencies thereof.

(k) "Farmer" means a person who expends his energies and production efforts in tilling the soil, raising crops and marketing crops, thereby promoting his financial interests.

(l) "Financial institution" means any bank, trust company, savings bank, industrial bank, land bank, savings and loan association, cooperative bank, safe deposit company, private bank, small loan company, sales finance company, or investment company, except the National Development Bank and all credit unions.

(m) "Fishermen" means a person who expends his energies and production efforts in catching, harvesting, and marketing fish or other marine life, thereby promoting his financial interest.



(n) "Gallon" means 128 fluid ounces.

(o) "Gross revenue" means the total sums of all receipts from sources within the Republic whether in the form of cash or property derived from business, from the exploitation of capital whether in the form of receipts from the disposition of capital assets, interest, dividends, royalties, rentals, fees or otherwise, however, such receipts may be labelled without deduction or offset of any kind or nature. Every taxpayer shall be presumed to be dealing on a cash basis. "Gross revenue" does not include:

(1) refunds, rebates, and returns;

(2) monies held in a fiduciary capacity;

(3) gross receipts from the sale of bonds or other evidence of indebtedness or stocks, or from the sale of land;

(4) income in the form of wages and salaries.

(p) "Guest" means an individual who has registered in a hotel and to whom a room has been assigned and who is a transient occupant of a room.

(q) "Hotel" means a building or other structure or group of structures under the same management that is kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for pay to guests, whether with or without meals.

(r) "Hotelkeeper" means any person, firm, corporation, partnership, joint venture, sole proprietor or enterprise devoted to profit in the administration of a hotel.

(s) "Import" means any article of tangible personal property manufactured, grown, produced or created without the Republic and brought to the Republic excluding, however, all personal items carried by transients which will be withdrawn from the Republic when the transient terminates his stay in the Republic or which will be consumed in the Republic by him during his visit.

(t) "Liquor" means and includes all distilled or rectified spirits, alcohol, brandy, cordial (whether the base therefore be wine or liquor), whiskey, rum, gin, and all other distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.

(u) "Liquid fuel" means and includes all liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power and includes liquefied petroleum gases, all distillates and condensates from petroleum, natural gas, coal, coal tar, and vegetable ferments, such distillates and condensates being ordinarily designated as a gasoline, diesel fuel, naphtha, kerosene, benzol, benzine, and alcohols so usable but not restricted to such designation. All aviation fuel which is sold for, used in or used for airplanes is deemed "liquid fuel" whether or not coming within the definition contained in the foregoing sentence.

(v) "Net room charge" means the total sum charged to a guest by a hotel for the use of one or more of its rooms, excluding charges for food, beverages, gratuities and other incidental charges.

(w) "Nonprofit corporation" means as incorporated under Republic law with no part of its income, either directly or indirectly, distributable to its members, directors, or officers and operated exclusively for one or more of the following purposes:

- (1) religious;
- (2) charitable;
- (3) scientific;
- (4) educational;
- (5) prevention of cruelty to the elderly or children;
- (6) prevention of cruelty to animals; or
- (7) to foster national or international sports.

The Director may, in his discretion, determine that a corporation is not a nonprofit corporation for the purpose of this division.

(x) "Person" means any individual, firm, partnership, joint venture, corporation, estate, trust, or other association, however organized.

(y) "Net income" means the gross revenue of such taxpayer received from all sources less the following deductions therefrom:

- (1) salaries or bonuses paid and other compensation for personal services;
  - (2) interest or discount paid;
  - (3) rents paid;
  - (4) ordinary operating expenses such as supplies, utility services, insurance premiums, other than for life insurance provided that any deductible insurance expenses shall be allowable only to the extent that such a premium is applicable to the tax period against which it is claimed;
  - (5) loans or obligations charged off the books of the bank as losses unless charged against reserves then in existence;
  - (6) losses other than loan losses, such as those occasioned by fire or other casualty, theft, embezzlement, and the like, but only to the extent not covered by insurance proceeds collected;
  - (7) transfer from earnings to reserve for bad debts or other contingencies provided for;
  - (8) miscellaneous direct expenses such as legal, advertising, auditing, and the like;
  - (9) loss on property sold and depreciation on property owned.
- (z) "Profession" means the capability to exercise a skill or art including, but not limited to, dentistry, medicine, law, pharmacy, accounting, architecture, psychology, and engineering.
- (aa) "Republic" means the Republic of Palau.
- (bb) "Retail" means the transfer of property to one who is buying for consumption and not resale.
- (cc) "Resident" means every individual domiciled in the Republic, and every other individual whether domiciled in the Republic or not, who resides in the Republic. To "reside" in the Republic means to be in the Republic for other than a temporary or transitory purpose. Every individual who is in the Republic for more than 60 days of the taxable year in the aggregate shall be presumed to be a resident of the Republic. The Director may, in his discretion, determine that an individual, regardless of the number of

days he is in the Republic, is a resident for the purposes of this division depending upon the nature of the individual["]s profession or work in the Republic.

(dd) [Repealed]

(ee) "Taxicab operator" means a person who operates any vehicle, excluding buses or tour vans, upon the public streets or highways for the purpose of transporting passengers upon payment of a certain fare.

(ff) "Tax year" means the calendar year.

(gg) "Wages" or "salaries" means any compensation paid to an employee who is a resident in his capacity as such for the rendition of personal services by him irrespective of whether paid in cash or property and irrespective of whether such compensation is paid evenly, sporadically or in a lump sum. This includes commissions, fees, compensation, emoluments, bonuses, and all other kinds of compensation paid for, credited or attributable to personal services performed by an individual, which services have been performed by such person as an employee. "Wages" and "salaries" shall not include:

(1) any payment on account of sickness or accident disability, or any payment of medical or hospitalization expenses, made by an employer to or on behalf of an employee; provided, that normal wages or salaries paid to an employee for a period of time during which he is excused from work because of sickness shall not be excluded from wages or salaries under this subsection.

(2) remuneration paid for casual or intermittent labor not performed in the ordinary course of the employer's trade or business and for not more than one week in each calendar month.

(3) any payment in the form of scholarship, fellowship, or stipend made to any individual to defray the costs of full-time study at a bona fide educational institution.

(hh) "Wholesaler" means a person making sales at wholesale. The following are sales at wholesale:

(1) sales to a retail merchant, jobber, or other licensed seller for purposes of resale;

(2) sales to a manufacturer of material or commodities which are to be incorporated by the manufacturer into a finished or saleable product (including the container or package in which the product is contained) during the course of its preservation, manufacture, or processing, including preparation for market, and which will remain in such finished or saleable product form as to be perceptible to the senses, which finished or saleable product is to be sold and not otherwise used by the manufacturer; or

(3) sales to a contractor of material or commodities which are to be incorporated by the contractor into the finished work or project required by the contract and which will remain in such finished work or project form as to be perceptible to the senses.

(ii) "Motor vehicle" means every vehicle which is self propelled and as otherwise defined in Title 42 of the Palau National Code.

**Source**

RPPL 1-63 § 102, as amended by RPPL 2-8 § 1, modified. Subsections (c), (d) and (h) amended by RPPL 5-7 § 30. Subsection (ii) added by RPPL 5-7 § 30. Subsection (dd) repealed by RPPL 5-7 § 46 effective 1/1/98.

**Notes**

See 2 PNCA § 118 concerning the duties and responsibilities of tax, revenue, and custom collection.

Palau Marine Industries Corp. v. ROP, 5 ROP Intrm. 333, 334 (Tr. Div. 1995).

# WAGES AND SALARY TAX

40 PNCA § 1102

## Chapter 11 Wages and Salary Tax

- § 1101. Tax on wages and salary.
- § 1102. Withholding by employer; pay over.
- § 1103. Taxes withheld by employer held in trust.
- § 1104. Refunds; contributions to nonprofit corporations.

### § 1101. Tax on wages and salary.

There shall be assessed, levied, collected, and paid a tax of six percent upon the first \$8,000.00 and 12 percent upon the amount over the first \$8,000.00 of all wages and salaries received by every employee. Employees with wages and salary for the tax year of \$2,000.00 or less shall not pay any tax under this section. Employees with wages and salary for the tax year of over \$2,000.00 shall pay tax on the full amount of their wages and salary earned.

Source  
RPPL 1-63 § 201. modified.

### § 1102. Withholding by employer; pay over.

The tax imposed by this chapter shall be collected by the employer by deducting and withholding the tax imposed on any wages and salaries as and when paid or credited to the employee. Every employer required to deduct and withhold the tax imposed shall be liable for the payment to the Director and shall pay over such tax to the Director within 30 days immediately after making disbursement of wages and salaries to the employee. Any employer who violates any of the provisions of this section shall be subject to the penalties prescribed in this division.

(a) The employer shall, within 30 days following the close of each quarter make a full, true and correct return showing all wages and salaries covered by section 1101 of this chapter paid by him during the preceding quarter, and showing the tax due, withheld and paid over thereon, which return shall be filed with the Director and shall include such other information as shall be required or prescribed by the Director. With respect to salaries and wages paid out of public monies, the Director at his discretion may prescribe special forms for, and different procedures and times for, the filing of such returns by employers paying such compensation, or may, upon such conditions and subject to such rules as he may prescribe from time to time, waive the filing of any

such returns. The Director may require more frequent returns and payments as he in his discretion deems advisable. The Director, for good cause, may extend the time for making returns and payments not in excess of 45 days. Every employer shall keep a payroll ledger for each employee showing the employee's name, rate of pay, hours worked, gross amount earned, taxes withheld (including social security taxes), net wages received, sales credits for employee's credit purchases, other deductions from his gross amount earned, and such other documentation as the Director may require.

(b) Every employer required to deduct and withhold any tax on the salaries and wages of any employee shall furnish to each such employee on or before January 31, of the succeeding year (or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of compensation is made) a written statement showing the wages or salaries paid by the employer to such employee during the preceding year and the amount of the tax deducted and withheld or paid with respect to such compensation. Such employer shall include with his final return for the calendar year, or shall file on or before January 31, a duplicate copy of each such statement with the Director. The Director may grant to any employer a reasonable extension of time not in excess of 60 days, with respect to any statement required by this subsection to be furnished to any employee or to be filed, and may by regulation provide for the furnishing or filing of statements at such other times and containing such other information as may be required for the administration of this chapter.

(c) Any employer who violates any of the provisions of this section shall be subject to penalties prescribed in this division.

(d) Any employee who receives wages or a salary from an employer that does not have a place of business in the Republic or that does not have an agent in the Republic responsible for withholding and paying over taxes, shall file such returns and pay such taxes as would his employer if he were in the Republic. An individual who is paid or credited wages from the United States or any instrumentality thereof, or from any other foreign nation, shall be under the same duty as an individual who is paid by an employer who does have a place of business within the Republic.

**Source**

RPPL 1-63 § 202.

**§ 1103. Taxes withheld by employer held in trust.**

All taxes withheld by any employer under this chapter shall be held in trust by such employer

for the government and for payment to the Director in the manner and at the time required by this chapter. Any employer may recover from an employee any amount which he should have withheld but did not withhold from such employee's wages and salaries, if he has been required to pay and has paid the amount to the government out of his own funds pursuant to this section.

**Source**

RPPL 1-63 § 203.

**§ 1104. Refunds; contributions to the nonprofit corporations.**

If it is shown upon application by an employee that there has been withheld from his wages or salary any tax not due thereon, then the Director shall refund the amount overpaid within 30 days from the application. If an employee files with the Director a verified receipt indicating money paid for preschool, elementary, secondary or post secondary school tuition for his own children or those under his guardianship, and/or financial contributions made by such employee to the Palau Community College or nonprofit corporations during the tax year, the Director shall refund such amounts within 90 days after the end of the tax year; provided that the amount of such a refund shall not exceed 10 percent of the income taxes paid by that employee in that tax year.

**Source**

RPPL 1-63 § 204, modified. Amended by RPPL 4-36 § 6.



**Chapter 12**  
**Gross Revenue and Net Income Tax**

- § 1201. Imposition of tax on retail and wholesale businesses.
- § 1202. Imposition of tax on professions.
- § 1203. Imposition of tax on financial institutions.
- § 1204. Imposition of tax on other businesses.
- § 1205. Quarterly returns.
- § 1206. Refund; business contributions to nonprofit corporations.

**§ 1201. Imposition of tax on retail and wholesale businesses.**

Every person engaging in the retail or wholesale business shall be assessed and levied and shall pay a tax of four percent of the gross revenues of the business; provided that the entire amount paid in salaries to citizen employees and 50% of the amount paid in salaries to noncitizen employees shall be subtracted from the gross revenues before assessing the tax under this section.

**Source**

RPPL 1-63 § 301; as amended by RPPL 2-8 § 2 and RPPL 4-10, § 26. Amended by RPPL 5-7 § 46 effective 1/1/98.

**Notes**

Section 471 of the Compact of Free Association between the United States of America and the Republic of Palau reads:

- (a) The Government of the United States and the Government of Palau agree that they have full authority under their respective constitutions to enter into this Compact and its related agreements and to fulfill all of their respective responsibilities in accordance with the terms of this Compact and its related agreements. The Governments pledge that they are so committed.
- (b) The Government of the United States and the Government of Palau shall take all necessary steps, of a general or particular character, to ensure, not later than the effective date of this Compact, that their laws, regulations and administrative procedures are such as to effect the commitments referred to in Section 471(a).
- (c) Without prejudice to the effects of this Compact under international law, this Compact has the force and effect of a statute under the laws of the United States.

Section 142 of the Compact of Free Association reads:

- (a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in Palau, subject to the right of that Government to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual

## GROSS REVENUE & NET INCOME TAX 40 PNCA § 1203

residence or domicile in Palau only in accordance with the laws of Palau. This subsection is without prejudice to the right of the Government of Palau to regulate occupations in Palau in a non-discriminatory manner.

(b) With respect to the subject matter of this Section, the Government of Palau shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

In a section entitled "Listing of Revisions Incorporated into the January 10, 1986 Improved Compacts" on page 506 of a U.S. Government publication entitled "Compact of Free Association - Hearings before the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs - 1986" Serial No. 99-9 Part IV appears the statement: "Section 142(a). A new sentence has been added to the end of this subsection recognizing Palau's right to regulate occupations in a non-discriminatory manner." This same statement is repeated on pages 201, 385, and 440.

### § 1202. Imposition of tax on professions.

Every person engaging in a profession shall be assessed and levied and shall pay a tax of four percent of the gross revenues of the profession; provided that the entire amount paid in salaries to citizen employees and 50% of the amount paid in salaries to noncitizen employees shall be subtracted from the gross revenues before assessing the tax under this section.

#### Source

RPPL 1-63 § 302; as amended by RPPL 2-8 § 3; and RPPL 4-10 § 26. Amended by RPPL 5-7 § 46 effective 1/1/98.

#### Notes

See note to 40 PNCA § 1201.

### § 1203. Imposition of tax on financial institutions.

Every person engaging or continuing within the Republic in the business of operating a financial institution shall be assessed and levied and shall pay a tax of four percent of the net income of the financial institution.

#### Source

RPPL 1-63 § 303.

**§ 1204. Imposition of tax on other businesses.**

Every person engaging in any business, trade, activity, or calling not specifically included in this chapter shall be assessed and levied and shall pay a tax of four percent of the gross revenues of the business, activity or calling; provided that the entire amount paid in salaries to citizen employees and 50% of the amount paid in salaries to noncitizen employees shall be subtracted from the gross revenues before assessing the tax under this section.

**Source**

RPPL 1-63 § 304; as amended by RPPL 2-8 § 4 and RPPL 4-10 § 26. Amended by RPPL 5-7 § 46 effective 1/1/98.

**Notes**

See note to 40 PNCA § 1201.

Palau Marine Industries Corp. v. ROP, 5 ROP Intrm. 333, 333 (Tr. Div. 1995).

**§ 1205. Quarterly returns.**

Each taxpayer under this chapter shall make and file, on or before the thirtieth day following the close of each quarter, a return to the Director based on its revenues the previous quarter. A remittance covering the full amount of tax liability as evidenced by the quarterly return shall accompany the return.

**Source**

RPPL 1-63 § 305, as amended by RPPL 2-8 § 5. Amended by RPPL 5-7 § 46 effective 1/1/98.

**§ 1206. Refund; business contributions to nonprofit corporations.**

If a business files with the Director a verified receipt indicating financial contributions made by such business to nonprofit corporations during the tax year, the Director shall refund such amounts within 90 days after the end of the tax year; provided that the amount of such refund shall not exceed 10 percent of the gross revenue or net income taxes paid by that business in that tax year.

**Source**

RPPL 1-63 § 306, modified.

**Chapter 13  
Import Tax**

- § 1301. Imposition of import tax.
- § 1302. Refund.
- § 1303. Entry of imports.
- § 1304. Entry documents.

**§ 1301. Imposition of import tax.**

(a) Every person who imports into the Republic any of the products set forth in items (1), (2), (4), (5), (6), (7), (8), (9) and (10) below, regardless of purpose, and every person who imports any of the other products set forth below into the Republic for commercial purposes, shall be assessed and levied and shall pay taxes thereon at the following rates:

- (1) cigarettes: \$0.50 per every 20 cigarettes; provided that persons arriving in the Republic by common carrier may bring in one carton of cigarettes (10 packs of 20 cigarettes) without taxation;
- (2) tobacco products, other than cigarettes: 150 percent ad valorem; provided that persons arriving in the Republic by common carrier may bring in one box of cigars (50 or fewer cigars) or one ounce of pipe tobacco without taxation;
- (3) perfumery, cosmetics and toiletries, including cologne and other toilet waters, articles of perfumery, and all preparations used as applications to the hair and skin, except soap, toothpaste, shampoo and the like, lipsticks, pomades, powders and other toilet preparations not having medicinal properties: 25 percent ad valorem;
- (4) carbonated soft-drinks: \$0.10 cents per 12 fluid ounces or fractional part thereof;
- (5) beer: \$0.03 per ounce;
- (6) liquor: \$0.30 per ounce; provided that persons arriving in the Republic by common carrier may bring in one bottle of liquor without taxation;
- (7) wine: \$0.20 per ounce;
- (8) wine coolers: \$0.05 per ounce;

(9) liquid fuel: \$0.05 per gallon;

(10) vehicles: 5 percent ad valorem plus \$250;

(11) all other imported products except foodstuff, medicines, and medical supplies: three percent ad valorem.

(b) The Director shall promulgate regulations implementing this section that include, but are not limited to, the definition of "commercial purposes".

**Source**

RPPL 1-63 § 401, as amended by RPPL 4-10, § 25, modified. Subsection (a) amended by RPPL 4-40 § 28(a). Subsection (a) amended by RPPL 5-8 § 2.

**§ 1302. Refund.**

Any person who imports products into the Republic and then exports such products shall be entitled to a refund of any import taxes actually paid on such products. In lieu of a refund, such person may claim and shall then be entitled to an offset of such taxes against any import taxes then due or owing on other imported products. For the purposes of this section, products shall be deemed exported if delivered to the buyer at a point or points within the Republic in a manner whereby such products may not reenter the Republic without customs examination and control.

**Source**

RPPL 1-63 § 402.

**§ 1303. Entry of imports.**

Except as otherwise provided, the consignee of imported merchandise shall make entry therefor, either in person or by an agent authorized by him at the office of the Director within 48 hours, exclusive of weekends and holidays after the entry of the importing vessel or plane.

**Source**

RPPL 1-63 § 403.

**§ 1304. Entry documents.**

(a) Entry may be made upon presentation to the Director of a nonnegotiable copy of the bill of lading and vendors' invoices covering all merchandise arriving on one vessel and consigned to one consignee. If proper documents are not available within 48 hours after

arrival of the merchandise, the estimated import tax shall be paid subject to adjustment when documents arrive.

(b) In addition to the nonnegotiable copy of the bill of lading and vendors' invoices, each importer shall sign an Entry Certificate stating that, under penalty of perjury, that the vendors' invoices are true and correct and that no alterations or changes have been made thereto. The Entry Certificate shall be obtained from the Director and signed at the time of the entry.

(c) All cargo, including ship's stores, carried on the vessel or aircraft entering the Republic must be included on the manifest and related bills of lading. Willful failure to so include such cargo or the presentation of a willfully falsified manifest shall be deemed to be a violation of this chapter.

(d) Within four hours after arrival, the master of a vessel or aircraft shall deliver to the Director two copies of the manifest and bills of lading and he shall also deliver a true and correct copy of any correction of such manifest and bills of lading filed on entry of his vessel or aircraft.

(e) Cargo shall be retained at the place of unloading until the import tax has been paid. Any cargo not released shall remain in the physical possession of the terminal operator at the expense of the consignee, but under technical customs custody until entry is made and the import tax paid.

(f) No carrier, agent, or terminal operator shall release or turn over to a consignee any merchandise being imported into the Republic without prior official written permission of the Director.

(g) The Director may board and examine any vessel or aircraft bringing merchandise into the Republic when in his opinion it is necessary to carry out the provisions of this chapter.

(h) The Director may detain, open, and examine any package mailed to an address within the Republic from without the Republic when he deems such acts necessary to carry out the provisions of this chapter, provided that he does not act inconsistently with the provisions of the Palau National Postal Organization Act of Title 32 of this Code.

Source  
RPPL 1-63 § 404, modified.

**Chapter 14**  
**Other Taxes**

- § 1401. Hotel room tax.
- § 1402. Amusement device tax.
- § 1403. Departure tax.
- § 1404. Road use tax.
- § 1405. Foreign water vessel tax; annual levy.
- § 1406. Fish export tax.
- § 1407. Vessel cabin tax.

**§ 1401. Hotel room tax.**

(a) An excise tax is hereby levied which shall be assessed and collected monthly, against guests of a room or rooms in a hotel, lodging house or similar facility, located in the Republic, of 10 percent of the net room charge for such accommodation. Every hotelkeeper doing business in the Republic shall pay to the Director on or before the fifteenth day of each month, all hotel room taxes collected at the rate of 10 percent of his net room rate.

(b) The hotelkeeper shall indicate the amount of the room tax as a separate item on the statement of charges to each hotel guest and shall pay over the tax collected to the Director with his gross revenue tax return.

**Source**  
RPPL 1-63 § 501.

**§ 1402. Amusement device tax.**

Every person who, at any time during the tax year, owns a coin-activated amusement device shall, within 30 days from the effective date of this division or within 30 days of its purchase, and thereafter on an annual basis payable on or before the thirty-first day of January, pay to the Director a tax of \$500.00 for each device that simulates the playing of any card game such as poker or black jack. For all other types of coin-activated amusement devices, a tax of \$200.00 shall be payable on the same basis. All such devices shall have affixed thereto stamps issued by the Director verifying payment of the tax. If no such stamp is affixed to a device the Director shall have the authority to confiscate said device pursuant to the procedures established under

## **COLLECTION AND APPEALS      40 PNCA § 1608**

delinquent liability is paid, provided the conditions set forth in subsection (a) are first complied with. The Director shall first revoke the business license of the delinquent taxpayer.

### **Source**

RPPL 1-63 § 706, modified.

### **§ 1607. Tax liens.**

Any taxes imposed or authorized under this division upon property shall be a lien upon the property and may be collected by levy upon it in the same manner as the levy of an execution.

### **Source**

RPPL 1-63 § 707.

### **§ 1608. Suit for refund.**

A taxpayer, within one year from the end of the tax year, may file an action in the Trial Division of the Supreme Court for the refund of any tax imposed and collected by the Director, if he alleges it was erroneously or illegally assessed and collected. The action shall be tried by the Court without a jury and petitioner shall have the burden of proof. The Ministry of Justice shall represent the Director.

### **Source**

RPPL 1-63 § 708, modified.





**Chapter 19  
Transition**

§ 1901. Transition.

**§ 1901. Transition.**

Any tax liability, penalty, interest or other assessment incurred under any law or regulation that is repealed by this division shall not be abated, extinguished or reduced and shall have full force and effect for transactions and activities occurring before the effective date of this division. All rules and regulations currently in effect, shall remain in force and effect, to the extent that they are not inconsistent with the provisions of this division. Notwithstanding any other provision of this division, salary and wages earned prior to October 1, 1984 and not paid or credited until after October 1, 1984, shall be taxed at the rates existing prior to October 1, 1984; and any withholding of taxes on salaries and wages so earned shall be based on the rates existing prior to October 1, 1984.

**Source**

RPPL 1-63 § 1002, as amended by RPPL 1-72 § 2, last sentence omitted as unnecessary.

**Chapter 20  
Exemptions**

§ 2001. Exemption; accountability.

**§ 2001. Exemption; accountability.**

Any nationals or citizens of foreign countries, supplying products, goods, machinery, materials, or services in connection with a project financed entirely by grant-aid assistance whose terms require exemption from internal taxes or fiscal levies as condition precedent to awarding such grant-aid projects provided by the government of any donor nation, shall be exempt from taxation under Title 40 PNCA Division 2, sections 1001-1901, as amended, with respect to such activities. The Director shall administer the application of this provision to such nationals or citizens of foreign countries seeking for or have been granted an exemption as provided herein and shall ensure that such exemptions are properly monitored, fully documented, and certified. The Director shall have the authority to promulgate rules and regulations as necessary to implement this provision consistent with this section.

**Source**

RPPL 3-31 § 1, modified.



**§ 1803. Inspection of returns.**

Tax returns and other information required to be filed or furnished by any person shall not be divulged by employees of the Bureau or a state to any person other than employees of the Bureau of National Treasury or authorized tax officials of states as provided in section 1802.

**Source**

RPPL 1-63 § 903.

**§ 1804. Prohibited employment.**

The Director and every employee of the Bureau of Revenue, Customs and Taxation while in such employment and for three years following termination of such employment may not act as a tax accountant or consultant for a fee or accept employment from any person preparing tax returns required by this division.

**Source**

RPPL 1-63 § 904. Amended by RPPL 5-7 § 32.

**§ 1805. Legislative appropriations allotment.**

Effective October 1, 1995, all appropriations for the legislature shall be apportioned and allotted at the direction of the President of the Senate and the Speaker of the House of Delegates or their designee. The President of the Senate and the Speaker of the House of Delegates or their designee, at the commencement of each fiscal quarter, shall have the authority to withdraw not more than 25 percent of all funds appropriated pursuant to this section, and may direct the Minister of Administration to establish a separate bank account outside of the National Treasury to be the depository of such funds. The President of the Senate and the Speaker of the House of Delegates or their designee shall have at their discretion the authority to solely administer, manage, and control all funds deposited in the separate bank account. Any unexpended or unobligated balances of appropriation of this section shall lapse at the end of the fiscal year.

**Source**

RPPL 4-36 § 2 which amended RPPL 4-32 § 5.



- imposed in accordance with this division;
- (3) the reasons for the compromise; and
  - (4) the approval of the Minister of Administration.
- (h) the power to enter binding agreements for the installment liquidation of any tax liability due the Bureau of Revenue, Customs and Taxation as he may deem necessary;
- (i) the power to approve any reasonable extension of time for the filing of a return or the paying of a tax liability as he may deem necessary;
- (j) the power, with the approval of the Minister of Administration, to make refunds on any overpayment of tax made by a taxpayer or any assessment erroneously made and collected;
- (k) the duty to give written notice [of] a tax liability and make a written demand for the payment of the same whenever any return or remittance required by this division is not made within the time allotted for such return or remittance. Such notice or demand shall be delivered to the taxpayer's dwelling or place of business or to his last address;
- (l) the power to subpoena records, including records of financial institutions and other third parties. Any person failing to comply with a subpoena shall be subject to the penalties provided in section 1704 of this division.

**Source**

RPPL 1-63 § 901, modified. Subsection (h) amended by RPPL 5-7 § 31.

**Notes**

The bracketed "[of]" in subsection (k) reads "to" in the original codification .

**§ 1802. Exchange of tax information.**

Notwithstanding any other provisions of law, the Director may make available to the properly authorized tax officials of any state, information contained in tax returns or any audit of a taxpayer, provided such state grants a like privilege to the national government.

**Source**

RPPL 1-63 § 902.





**Chapter 18**  
**Administration**

- § 1801. Powers and duties of the Director.
- § 1802. Exchange of tax information.
- § 1803. Inspection of returns.
- § 1804. Prohibited employment.
- § 1805. Legislative appropriations allotment.

**§ 1801. Powers and duties of the Director.**

The Director shall have the following powers and duties:

- (a) the power to designate from among the employees of the Bureau and to hire such collectors and auditors as may be required to carry out the provisions of this division pursuant to the National Public Service System Act of Title 33 of this Code;
- (b) the duty to make all assessments of taxes levied by this division and to collect all taxes levied by this division;
- (c) the duty to enforce this division and to collect all taxes levied by this division;
- (d) the power to inspect and examine the records, books of account, bank statements, and any other pertinent data of any person for the purpose of enabling him to obtain the information necessary to enforce the provisions of this division;
- (e) the power to issue such rules, regulations and rulings as the Director deems necessary or appropriate to carry out the provisions of this division;
- (f) the duty to prescribe tax return forms and other forms necessary for the administration and collection of all taxes levied by this division;
- (g) the power, with approval of the Minister of Administration, to compromise claims, penalties and interest arising out of any levy in the case of any such compromise he shall place on file for public inspection a statement setting forth:
  - (1) the amount of the tax assessed or which could have been assessed by or in accordance with this division;
  - (2) the amount of penalties and interest imposed, or which could have been



**§ 1702. Interest.**

If any tax or penalty imposed by this division is not paid on or before the date prescribed for such payment, there shall be assessed and collected, in addition to such tax liability at the rate of three percent per month from its due date until the date it is paid.

**Source**

RPPL 1-63 § 802. modified.

**§ 1703. Business license revocation.**

The Director in his discretion may suspend or revoke any business license upon a taxpayer's failure to comply with this division or regulations issued hereunder. The Director, under this section, is not subject to the provisions of the Administrative Procedure Act of chapter 1 of Title 6 of this Code.

**Source**

RPPL 1-63 § 803. modified.

**§ 1704. General penalty.**

Any person who willfully violates any of the provisions of this division for which there is no other designated penalty, or any rule or regulations issued hereunder, shall, upon conviction, be imprisoned for a period of not more than one year, fined not more than \$1,000.00, or both.

**Source**

RPPL 1-63 § 804.



**Chapter 17**  
**Penalties and Interest**

- § 1701. Penalties.
- § 1702. Interest.
- § 1703. Business license revocation.
- § 1704. General penalty.

**§ 1701. Penalties.**

The following penalties are hereby levied and shall be assessed and collected by the Director:

- (a) Failure to timely file return, pay or pay over a tax--if any taxpayer, required by this division to file a return, pay or pay over any tax, fee or charge levied or imposed under this division, fails to do so on or before the date set, unless it is shown that such failure is due to reasonable causes, he shall be assessed 10 percent of the amount for each 30 days or fraction thereof elapsing between the due date of the return and the date on which it is actually filed, paid or paid over in addition to the amount due.
- (b) Failure to file return after demand--if any taxpayer, required by this division to file a return, upon notice and demand by the Director fails or refuses within 30 days after receipt of said notice and demand to make and file a return, the Director may estimate the tax assessment and assess a penalty thereon of 25 percent of the tax assessed, in addition to any other penalty that may be assessed under this chapter.
- (c) False and fraudulent returns--any person who files a return containing false information with the intent to evade a tax, or any portion thereof shall upon conviction, be imprisoned for not more than three years, fined not more than \$10,000.00, or both, and be subject to any other penalties that may be assessed under this chapter. In addition, such a person shall be assessed a civil penalty of 50 percent of the tax owed.
- (d) Failure to file employer statement--any employer required to file a written statement under section 1102(b) of this division, who fails to file such statement on the date prescribed therefor, except with regard to any extension of time for filing, shall be subject to a \$50.00 penalty for each statement not filed.

**Source**

RPPL 1-63 § 801, modified.