

**NAT'L GOVT. FISCAL RESPONSIBILITY    40 PNCA § 101  
AND DEBT MANAGEMENT ACT**

**TITLE 40  
REVENUE AND TAXATION**

**DIVISION 1  
REVENUE**

**Chapter 1  
National Government Fiscal Responsibility and Debt Management Act**

- § 101. Short Title.
- § 102. National Treasury; established.
- § 103. Deposit and disbursement.
- § 104. Definitions.
- § 105. Principles of responsible fiscal management.
- § 106. Guiding Fiscal Strategy.
- § 107. Medium-Term Economic and Fiscal Model.
- § 108. Annual Economic and Fiscal Update.
- § 109. Annual Budget Call.
- § 110. Annual Budget Statement.
- § 111. Half-Year Economic and Fiscal Update.
- § 112. Power of Minister to obtain information.
- § 113. Generally accepted accounting principles (GAAP).
- § 114. Supplemental nature of requirements.

**§ 101. Short title.**

This chapter shall be known as and may be cited as the “National Government Fiscal Responsibility and Debt Management Act”.

**Source**  
RPPL 11-13 § 2.

**Notes**  
Former chapter 1 entitled “National Treasury” amended in its entirety by RPPL 11-13 § 3.

*See 2 PNCA § 102 for all references to Ministry names in this Title.*

**§ 102. National Treasury; established.**

There is hereby established a National Treasury of the Republic of Palau into which all revenues derived from national taxes or other sources due to the national government shall be deposited. For purposes of this section, in order for revenue to be considered deposited within the National Treasury, the funds must first be receipted and recorded in the Republic’s centralized Fiscal Management System. No funds shall be withdrawn from the National Treasury except by law.

**Source**  
RPPL 11-13 § 3.

**§ 103. Deposit and disbursement.**

The Director of the Bureau of National Treasury shall collect and receive national revenues and make such disbursements from the National Treasury as prescribed by law.

**Source**  
RPPL 11-13 § 3.

**§ 104. Definitions.**

As used in this chapter, the following words shall have the meanings described below:

- (a) “borrowing” means the procedures for creation of financial liabilities by conclusion of loan agreements, issuance of government securities, or entering into supplier’s credit agreements.
  
- (b) “debt” means all financial liabilities created as a result of borrowing by the National Government, sovereign guarantees granted by the National Government, borrowing by State Governments, State Owned Enterprises, or Public Financial Institutions, whether by on-lending or supported by a sovereign guarantee, and outstanding liabilities as a result of the issuance of Government securities.
  
- (c) “fiscal year” means the period beginning from the 1st of October in one year to the 30<sup>th</sup> of September of the next year; by convention, the named fiscal year ends on the 30<sup>th</sup> of September.
  
- (d) “government” means the National Government of the Republic of Palau.

**NAT'L GOVT. FISCAL RESPONSIBILITY    40 PNCA § 104  
AND DEBT MANAGEMENT ACT**

- (e) “long-term” means more than five (5) years.
- (f) “government securities” means, where applicable, treasury bills, treasury bonds, bearer bonds, registered stocks, government promissory notes, and such other securities as may be prescribed.
- (g) “line of credit” means a loan arrangement between a financial institution, usually a bank, and a client that establishes the maximum loan amount the customer can borrow. The borrower can access funds from the line of credit at any time as long as they do not exceed the maximum amount set forth in the agreement and if they meet any other requirements of the arrangement.
- (h) “loan” means any form of financial credit for goods or services, granted to or on behalf of the National Government and National Government sovereign guarantees and any form of financial credit for goods or services granted to or provided through on-lending to State Governments, State Owned Enterprises, or Public Financial Institutions.
- (i) “medium-term” means three to five years.
- (j) “Minister” means the Minister of Finance or such person acting as the designee of the Minister of Finance.
- (k) “Ministry” means the Ministry of Finance.
- (l) “prescribed” means prescribed by regulations.
- (m) “Public Financial Institutions” means a broad range of public business operations within the financial services sector, and in Palau that include, but are not limited to the Social Security Administration, the Civil Service Pension Fund, the National Development Bank of Palau and the Palau Housing Authority.
- (n) “regulations” means the regulations made under chapters 1,3, or 5 of Title 40.
- (o) “State Government” means any of the sixteen (16) State Governments of the Republic of Palau.
- (p) “State Owned Enterprises” means a legal entity that is created by a government in order to partake in commercial activities on the government’s behalf. The enterprise can be either wholly or partially owned by a government and is typically earmarked to

participate in specific commercial activities. State Owned Enterprises in Palau currently include, but are not limited to the Palau Public Utilities Corporation, the Palau National Communications Corporation and the Belau Submarine Cable Corporation.

(q) “supplier’s credit agreement” means an agreement whereby goods or services delivered or supplied to the Government are to be paid for at some future date extending beyond the end of the fiscal year within which the goods or services are delivered or supplied.

(r) “U.S. GAAP” means generally accepted accounting principles promulgated by the U.S. Governmental Accounting Standards Board.

**Source**  
RPPL 11-13 § 3.

**§ 105. Principles of responsible fiscal management.**

(a) The government shall pursue its policy objectives in accordance with the following principles of responsible fiscal management:

- (1) manage operating expenditures over the medium-term within operating revenues and in relation to the rate of growth of the economy;
- (2) manage net capital and financial assets, including the COFA Trust Fund, to achieve rising real national net worth over time;
- (3) manage debt prudently;
- (4) manage the revenue regime to best fit the structure of the economy, to provide for an equitable allocation of tax burdens, and to allow for predictability over time;
- (5) manage reserves and insurance coverage to offset cyclical volatility, the costs of natural disasters, and the impact of climate change;
- (6) manage the non-primary government public sector prudently, including ensuring State Owned Enterprises and Public Financial Institutions are managed to deliver services on an effective and financially sustainable basis; and

**NAT'L GOVT. FISCAL RESPONSIBILITY    40 PNCA § 107  
AND DEBT MANAGEMENT ACT**

(7) manage fiscal risks and contingent liabilities prudently.

(b) Notwithstanding subsection (a) above, the Government may depart from the principles of responsibility provided the:

(1) departure is temporary;

(2) President states the reason for the departure;

(3) President indicates the period of time required to return to adherence to the principles; and

(4) Should any such circumstances arise which force departure from these principles during the fiscal year, they must be timely disclosed in accordance with the provisions of this chapter.

**Source**

RPPL 11-13 § 3, modified.

**§ 106. Guiding Fiscal Strategy.**

(a) At the outset of each new administration's four (4)-year term, or more often as circumstances may dictate, the President shall present to the Olbiil Era Kelulau (and publish for public awareness) a fiscal strategy indicating Palau's fiscal goals and policies that clearly demonstrates adherence to the principles of fiscal responsibility as set forth in section 105. This fiscal strategy shall be presented and published no later than the date of the President's first State of the Republic Address pursuant to Article VIII, § 13 of the Constitution of the Republic of Palau.

(b) The Fiscal Strategy, until amended or replaced, shall guide the annual operation of fiscal policy through the elements of the Palau budget cycle as indicated in sections 107 through 112 and consistent with the provisions of 40 PNC chapter 3.

**Source**

RPPL 11-13 § 3, modified.

**§ 107. Medium-Term Economic and Fiscal Model.**

The Minister shall ensure that the Ministry creates and maintains a Medium-Term Economic and

Fiscal Model (MTEF Model). The MTEF Model shall be a quantitative economic and fiscal framework of the Palauan economy based on Palau's audited fiscal results and published economic results looking backward and capable of producing forward-looking economic and fiscal projections over the medium-term to support the preparation of a fiscally sustainable budget. A key result from the MTEF Model shall be an annual fiscal envelope that includes the revenue projection by source, aggregate expenditure limit across all government, all elements of the Funds Availability Analysis under 40 PNC § 329, all supporting documentation required under 40 PNC § 323, and an explanation of all policy matters affecting the economic outlook for the year, but which allows for policy preferences and priorities to be expressed by the President at the level of each branch, ministry and agency, as specified in section 322 of chapter 3 of this Title. The MTEF Model results, including the underlying assumptions and the annual fiscal envelope establishes the basis for revenue projections by source and the annual aggregate expenditure limit that shall be used to inform the annual budget call and the Funds Availability Analysis required under section 329.

**Source**  
RPPL 11-13 § 3, modified.

**§ 108. Annual economic and fiscal update.**

(a) The Minister shall issue an annual economic and fiscal update, including economic and fiscal forecasts based on current policies. When relevant, the update shall also include the potential impact of each economic and fiscal policy change under consideration by the government. The update shall also include a statement of fiscal responsibility attested to by the Minister and reporting on Palau's current and planned adherence to the Principles of Fiscal Responsibility and on such other matters as may be specified by regulation.

(b) Economic Forecasts.

(1) the economic forecasts contained in the economic and fiscal update prepared under this section shall consist of five years of data (for the prior year, the current year, the budget year and at least two additional years) and shall include forecasts of movements in the Republic of Palau in relation to, but not limited to:

(A) gross domestic product (including the major components of gross domestic product);

(B) per capita gross domestic product, taking into consideration the

**NAT'L GOVT. FISCAL RESPONSIBILITY    40 PNCA § 108  
AND DEBT MANAGEMENT ACT**

Republic's balance of payments as measured by the total amount of money flowing into the Republic and the outflow of money to the rest of the world;

- (C) consumer prices;
- (D) population and employment;
- (E) tourism statistics; and
- (F) money and credit statistics.

(2) the economic forecasts shall also include a statement of all significant assumptions underlying the forecasts.

(c) Fiscal Forecasts.

(1) the fiscal forecasts contained in the economic and fiscal update prepared under this section shall consist of five years of data (for the prior year, the current year, the budget year and at least two additional years).

(2) The fiscal forecasts for the five-year period shall include:

- (A) revenues;
- (B) expenses;
- (C) capital expenditures;
- (D) financing, including a statement of borrowing and schedule of principal and interest repayments;
- (E) public debt;
- (F) the overall fiscal deficit and the Government's net position;
- (G) any other statements that are necessary to fairly estimate national net worth; and

(H) outstanding litigation and threatened claims against the government or any of its subdivisions or agencies.

(3) the fiscal forecasts shall also include:

(A) in relation to each variable in the fiscal forecasts, comparative budgeted and estimated actual figures for the prior and current fiscal year;

(B) a statement of all significant assumptions underlying the fiscal forecasts;

(C) a statement that shows the sensitivity of the fiscal forecasts to changes in economic conditions; and

(D) a statement that compares prior year fiscal forecasts with actual year-end results.

(d) As part of the annual economic and fiscal update, the Minister shall include a detailed report on all outside grants totalling two hundred thousand dollars (\$200,000) or more received by any government agency or recurring budget activity.

**Source**  
RPPL 11-13 § 3, modified.

**§ 109. Annual Budget Call.**

The President shall issue to all branches, ministries and agencies of government, and all entities receiving public funds as recurring budget activities, the Annual Budget Call as required in section 322 of chapter 3 of this Title. The Annual Budget Call shall take notice of and shall be informed by the Performance Review as set forth in section 373 of chapter 3 of Title 40.

**Source**  
RPPL 11-13 § 3.

**§ 110. Annual Budget Statement.**

The President shall submit to the Olbiil Era Kelulau, along with the Annual Budget transmission, an Annual Budget Statement that:



**NAT'L GOVT. FISCAL RESPONSIBILITY    40 PNCA § 112  
AND DEBT MANAGEMENT ACT**

- (a) describes any economic and fiscal policy changes that are assumed in the formulation of the annual budget;
- (b) describes the key assumptions, including MTEF Model results that established the fiscal envelope, under which the budget was formulated;
- (c) includes a statement of tax policy and quantitative assessment of any changes that have resulted in material change to the tax revenue forecasts for the fiscal year;
- (d) includes a comprehensive clarification of the policy preferences and priorities of the President for the attached budget; and
- (e) describes any changes to the Executive branch's organizational structure, changes in ongoing Executive branch programs, and proposed new Executive branch programs, and explains how these changes align with the administration's Fiscal Strategy developed pursuant to section 106.

**Source**

RPPL 11-13 § 3, modified.

**Notes**

Subsections (1) to (5) in the original legislation are re-lettered to conform with the Code format.

**§ 111. Half-Year Economic and Fiscal Update.**

The Minister shall issue a half-year Economic and Fiscal Update which, at a minimum, will provide an update of key fiscal tables to inform of late-year budget adjustments, if any, and which may also update economic and fiscal forecasts based on the latest information available at the time the Half-Year Update is issued.

**Source**

RPPL 11-13 § 3.

**§ 112. Power of Minister to obtain information.**

- (a) The Minister may require any department or any entity that manages an asset or liability of the government, or any entity that has received government funds in the past three (3) fiscal years, to supply any information that is necessary to enable the preparation of any fiscal forecasts required under this Title.

(b) A request under this section:

(1) shall be in writing; and

(2) may state the date by which, and the manner in which, the information requested shall be provided.

(c) If a date is stated in a request, that date shall be reasonable, having regard to the time limits prescribed by this chapter for presenting to the Olbiil Era Kelulau, or for publishing, the report or update for which the information is being requested.

**Source**  
RPPL 11-13 § 3.

**§ 113. Generally Accepted Accounting Principles (GAAP).**

All financial statements and forecast financial statements included in reports and updates required under this Title shall be prepared in accordance with United States Generally Accepted Accounting Principles (U.S. GAAP).

**Source**  
RPPL 11-13 § 3.

**§ 114. Supplemental nature of requirements.**

The requirements imposed on the President and the Minister of Finance under this chapter are separate and additional to any other requirements contained in other chapters of this Title. Nothing in this chapter shall be interpreted to eliminate, limit, or otherwise alter the requirements imposed on the President and the Minister of Finance pursuant to the other chapters of this Title.

**Source**  
RPPL 11-13 § 3.

**Chapter 2  
Public Auditor**

**Subchapter I  
General Provisions**

- § 201. Short title.
- § 202. Purpose.
- § 203. Definitions.

**§ 201. Short title.**

This chapter may be cited as the “Public Auditing Act of 1985.”

**Source**

RPPL 2-6 § 100, modified.

**§ 202. Purpose.**

It is the purpose of this chapter to implement Article XII, Section 2, of the Constitution of the Republic of Palau by creating an Office of the Public Auditor to conduct audits of all agencies and activities of the Republic and to assign such additional duties to the Public Auditor as the Olbiil Era Kelulau deems necessary.

**Source**

RPPL 2-6 § 101, modified.

**§ 203. Definitions.**

As used in this chapter:

- (a) “Agency” means any entity established or funded by law of the Republic or a local government. Agency includes, but is not limited to, the following entities and their officers, directors, employees, and independent contractors: any authority, board, branch, bureau, commission, cooperative, council, division, fund, group, institution, political division, office, or public corporation, including any autonomous or semi-autonomous governmental entity.

- (b) “Audit” means an independent examination of books, performance, documents, records, and other evidence relating to the receipt, possession, obligation, disbursement, expenditure, or use of public funds by any agency or any activity of any agency; or relating to any contract or grant to which any agency is a party, including any operations relating to the transactions. Audit includes financial audits, performance audits, and program audits or any combination of the audits that the Public Auditor may deem appropriate.
- (c) “Constitution” means the Constitution of the Republic of Palau.
- (d) “Coordinating Group” means the Interagency Audit Coordinating Advisory Group established by section 230 of this chapter.
- (e) “Financial audit” means an audit to determine:
- (1) whether financial operations of any agency, or any relevant financial operations of any government contractor or grantee, have been properly conducted;
  - (2) whether any financial report of any agency, contractor, or grantee has been fairly presented; and
  - (3) whether any agency, contractor, or grantee has complied with laws and regulations applicable to their operations.
- (f) “Performance audit” means an audit to determine whether an agency has managed or used its funds, personnel, property, space, and other resources in an effective and efficient manner, and to identify the cause of any inefficiency or ineffective practice, including any inadequacy in management information systems, administrative procedures, or organizational structure.
- (g) “Program audit” means an audit to determine whether the desired results or benefits of agency programs or activities, or of any contract or grant, are being achieved, whether the objectives established by the Olbiil Era Kelulau, or otherwise established pursuant to law or by the Constitution, are being met, and whether the agency, contractor, or grantee has considered alternatives which might yield desired results more effectively or at lower cost.
- (h) “Republic” means the Government of the Republic of Palau.

**Source**

RPPL 2-6 § 102; terms put into alphabetical order and section modified.

**Subchapter II  
Establishment of Office**

- § 221. Office of the Public Auditor; establishment.
- § 222. Appointment and removal of the Public Auditor; compensation; vacancy.
- § 223. Duties of the Public Auditor.
- § 224. Special duties to act to prevent fraud, waste and abuse in the collection and expenditure of public funds.
- § 225. Employees of Office.
- § 226. Outside specialists may be hired.
- § 227. Centralization of all auditing services required by an agency of the Republic.
- § 228. Audit standards.
- § 229. Audit procedures and requirements.
- § 230. Establishment of Coordinating Group.
- § 231. Annual report.

**§ 221. Office of the Public Auditor; establishment.**

An Office of the Public Auditor, to be headed by the Public Auditor, is established as an independent agency of the Republic to audit the receipt, possession, and disbursement of public funds by agencies of the Republic and to perform such other duties as required in this chapter.

**Source**

RPPL 2-6 § 200, modified.

**§ 222. Appointment and removal of the Public Auditor; compensation; vacancy.**

- (a) The President shall appoint the Public Auditor subject to confirmation by the Olbiil Era Kelulau. No person shall be appointed Public Auditor unless he or she is a certified public accountant, has received an equivalent, internationally recognized certification, or has served as acting Public Auditor for a period of three (3) years or more, and has a minimum of five (5) years experience in accounting or governmental finance.
- (b) The Public Auditor shall be appointed for a term of six (6) years.

(c) The salary of the Public Auditor shall be within the grades and steps specified in 33 PNCA § 702, payable biweekly. The salary shall be determined by the President based upon the experience and qualifications of the applicant for the position of Public Auditor. The salary limit does not include recruitment, transportation and repatriation costs and benefits, or housing allowances and benefits, as allowed by Executive Branch regulation and stated in the standard employment contract.

(d) The Public Auditor may be removed only for cause and by the affirmative vote of two-thirds of the members of each house of the Olbiil Era Kelulau.

(e) In the event that there is a vacancy in the Office of the Public Auditor, the Chief Justice of the Supreme Court shall appoint a temporary public auditor with the same qualifications as required by law for the Public Auditor who shall serve until the vacancy is filled as provided in the Constitution and subsections (a) and (b) of this section. In no case may the Chief Justice appoint a person who has previously been rejected for such appointment by the Olbiil Era Kelulau.

**Source**

RPPL 2-6 § 201, modified. Subsection (c) amended by RPPL 3-50 § 1 and RPPL 4-21 § 4, modified. Subsection (a) amended by RPPL 5-7 § 36 as amended by RPPL 5-34 § 31. Subsections (a) and (e) amended by RPPL 7-25 § 25a, modified.

**§ 223. Duties of the Public Auditor.**

(a) Not later than June 30 of each year, the Public Auditor shall transmit to the President and to the presiding officer of each house of the Olbiil Era Kelulau an annual report for the previous fiscal year required by Article XII, Section 2, of the Constitution. The report shall consist of a financial audit of the National Treasury, each trust fund, each other fund of any agency whether or not appropriated, each contract to which any agency is a party, and each grant made or received by any agency. The audit shall cover the receipt, possession, and disbursement of public funds including all liabilities, receivables, and accruals of any agency, all taxes, fees, receipts, and other revenues of any agency, all other financial transactions involving any agency, and any financial statement issued or prepared by any agency. Personal service contracts and prime contracts with employees of any agency shall be audited as part of the regular operations and activities of the agency.

(b) The Public Auditor shall from time to time make such other audits of the Republic's agencies, activities, contracts, or grants as are possible within the budget provided him and as he deems to be in the public interest and consistent with this chapter.

(c) Upon request of an agency of the Republic the Public Auditor shall provide its opinion as to whether or not certain practices are in accord with generally accepted accounting principles.

(d) The Public Auditor shall undertake as soon as possible, a financial audit of all expenditures and receipts of the Republic since its inception as a constitutional government in 1981. The result of this audit shall be submitted to the Coordinating Group as established by section 230 of this chapter, and in accordance with its rules and procedures.

(e) In accordance with chapter 22 of Title 40 of the Palau National Code, the Public Auditor shall transmit to the President and to the presiding officer of each house of the Olbiil Era Kelulau a state financial audit report annually for each state governor and state legislature. The audit shall cover the receipt, possession, and disbursement of public funds including all liabilities, receivables, and accruals of any agency, all taxes, fees, receipts, and other revenues of any state governor or legislature, all other financial transactions involving any state governor or legislature, and any financial statement issued or prepared by [a] state governor or legislature. Personal service contracts and prime contracts with employees of any state governor or legislature shall be audited as part of the regular operations and activities of the state governor or legislature. Beginning in 2014, each state shall submit prior year audits no later than the end of the third quarter of the next fiscal year.

(f) Within ninety (90) days of the effective date of this Act, the Public Auditor shall promulgate rules of compliance by which all state legislatures and governors shall be held publicly accountable for expenditure of public funds.

**Source**

RPPL 2-6 § 202, modified. Subsections (e) and (f) are added by RPPL 9-9 § 2, modified.

**Notes**

Effective Date of RPPL 9-9: August 13, 2013.

**§ 224. Special duties to act to prevent fraud, waste and abuse in the collection and expenditure of public funds.**

(a) The Office of the Public Auditor shall specially act to prevent and detect fraud, waste and abuse in the collection and expenditure of all public funds. The Public Auditor may audit any transaction involving the procurement of supplies or the procurement of any construction by agencies of the Republic and the procurement of any supplies and

services in connection with such construction.

(b) The Public Auditor may conduct audits and inspections, when necessary, relating to programs and operations involving expenditure of public funds. He may review legislation and regulations relating to programs and operations involving expenditure of public funds and may make recommendations concerning the effect of such legislation or regulation on the prevention and detection of fraud, waste and abuse. He may recommend policies which will assist in the prevention or detection of fraud, waste and abuse. The person in charge of, or the governing body of any agency of the Republic, involved in the expenditure of public funds for the purpose of procurement of supplies or construction, and the services and supplies in connection therewith, may request the assistance of the Office of [the] Public Auditor with respect to implementation of any suggested policy.

**Source**

RPPL 2-6 § 203, modified.

**§ 225. Employees of Office.**

(a) The Public Auditor may appoint and remove such employees as he deems necessary to perform the duties of his office, which employees shall be exempt from Civil Service laws and regulations. His employees may include assistant public auditors, accountants, auditors, financial management analysts, investigators, attorneys, paralegals, secretaries, and clerks.

(b) The Public Auditor may establish personnel regulations including code of ethics for the employees of his office. No employee of the Office of the Public Auditor shall hold, or be a candidate for, any elective public office while an employee, nor shall he participate in any political campaign of any candidate for public office while an employee. Except as otherwise provided by law, no employee shall engage in any other business or profession, or hold any governmental office, including, but not limited to, membership on any governmental board, commission, authority or committee.

(c) The Public Auditor may, when in his judgment it is necessary, delegate any of his duties and powers to any of the employees employed by him. The employees shall report their findings for review by the Public Auditor.

**Source**

RPPL 2-6 § 204, as amended by RPPL 4-6 § 1, modified.



**§ 226. Outside specialists may be hired.**

(a) Independent specialists shall be used for any audit involving the Office of the Public Auditor, or with respect to which the Public Auditor or the Office of the Public Auditor has a conflict of interest, including an audit of any agency, contract, or grant for which the Public Auditor has had management responsibility or in which he was employed

(1) during the two years preceding the time period covered by the audit, or

(2) during the two years preceding or subsequent to the audit time period.

(b) If the Public Auditor fails to schedule an audit so that it can be completed in time to comply with any applicable law or the terms of any loan, grant, financial assistance, or contract, or if the Public Auditor fails to commence, conduct, or complete any audit as required by law, the person or agency concerned may, upon the approval of the President and Public Auditor, and subject to the availability of funds, enter into a contract with any independent certified public accountant for the purpose of conducting the audit. The audit shall be conducted as closely as possible to the standards adopted by the Office of the Public Auditor.

**Source**

RPPL 2-6 § 205, modified.

**§ 227. Centralization of all auditing services required by an agency of the Republic.**

The Office of the Public Auditor shall conduct or supervise all audits required for, or sought by an agency of the Republic.

**Source**

RPPL 2-6 § 206, modified.

**§ 228. Audit standards.**

(a) The audit standards shall be consistent with the provisions of this chapter and with generally accepted auditing standards. The audit standards shall incorporate the Standards for Audit of Government Operations, Programs, Activities, and Functions published from time to time by the United States General Accounting Office, including those standards issued by the American Institute of Certified Public Accountants referred to therein.

(b) All audits conducted or caused to be conducted by the Public Auditor shall be performed with [the] highest degree of professionalism and with strict avoidance of any degree of partisanship or bias.

**Source**  
RPPL 2-6 § 207, modified.

**§ 229. Audit procedures and requirements.**

(a) At the conclusion of the audit, the Public Auditor or his designee shall discuss the audit with the officials whose agency, grant, contract, or activity is subject to audit and submit to them a list of his proposed findings which may be included in the audit report. The preliminary audit and proposed findings shall not be made public prior to the receipt of comments from the agencies solicited. If the officials are not available for personal receipt of the list of audit findings, then delivery shall be deemed made when it is delivered to the agency. The agency shall submit to the Public Auditor within 30 days after the receipt of the list of findings, its written statement of explanation or rebuttal concerning any of the adverse or critical audit findings, including any corrective action to be taken to preclude a recurrence of any adverse findings. The Public Auditor shall promptly notify the agency involved as well as the Coordinating Group in the event of an agency's failure to respond or the filing of unresponsive answers to the adverse or critical audit findings. The Public Auditor shall publish the substance of the agency response in the audit report.

(b) An audit report shall make special mention of:

(1) any violation of the laws within the scope of the audit; and

(2) any improper expenditure, any improper accounting procedures, all failures to properly record financial transactions, and all other inaccuracies, irregularities, shortages, and defalcations.

(c) Specific allegations naming the persons involved in improper or illegal acts found in connection with an audit shall be included in a separate confidential special report which shall be transmitted only to the Attorney General, the Interagency Audit Coordinating Advisory Group and Federal agencies when applicable.

**Source**  
RPPL 2-6 § 208, modified.

**§ 230. Establishment of a Coordinating Group.**

(a) An Interagency Audit Coordinating Advisory Group is established consisting of the Presiding Officer of each House of the Olbiil Era Kelulau, the Director of the National Treasury, and the Attorney General.

(b) The Coordinating Group shall not be deemed an agency for purposes of this chapter or any other law, but shall meet or confer as necessary to perform the functions assigned to it by this chapter.

(c) The Coordinating Group shall review all audit reports of the Public Auditor, and the Public Auditor shall discuss the manner in which his recommendations can be implemented with the assistance of the members of the Coordinating Group. The Coordinating Group shall recommend to the President and to the Olbiil Era Kelulau any changes in law or regulations which it finds necessary or desirable as a result of its work with the Public Auditor.

**Source**

RPPL 2-6 § 209, modified. Subsection (a) amended by RPPL 5-35 § 1.

**§ 231. Annual report.**

The Public Auditor shall report on his activities and findings to the Olbiil Era Kelulau and the President at least once every calendar year, and this report shall be made public promptly.

**Source**

RPPL 2-6 § 210, modified.

**Subchapter III  
Budgeting and Funding**

§ 251. Budget.

§ 252. Authorization for Public Auditor to accept funds for audits performed for Federal agencies.

**§ 251. Budget.**

(a) The Public Auditor shall transmit his proposed budget in the form and manner

specified by the President.

(b) Beginning in Fiscal Year 2019 the lesser of six hundred thousand dollars (\$600,000) or one percent (1%) of all unrestricted local revenues from the preceding fiscal year, shall be reserved for the Office of the Public Auditor to perform all duties required under Article XII, Section 2(b) of the Republic’s Constitution. These funds shall be authorized and appropriated to the Office of the Public Auditor through the unified budget process. This funding is not subject to reprogramming, and is restricted solely for the use of the Public Auditor for the performance of his duties as required by Article XII, Section 2(b). The Office of the Public Auditor shall report a detailed account of the use of the funds to the President and the Olbiil Era Kelulau, no later than ninety (90) days after the close of each Fiscal Year.

**Source**

RPPL 10-16 § 3, modified.

**Notes**

Former § 251 RPPL 2-6 § 300 was repealed by RPPL 10-16 § 2.

**§ 252. Authorization for Public Auditor to accept funds for audits performed for Federal agencies.**

(a) The Public Auditor may enter into agreements or contracts for the Federal Government, Federal agencies, or agencies of the Republic, acting in behalf thereof, for the purpose of conducting mutual financial audits of programs funded in whole or in part by the Federal Government and carried out by agencies of the Republic.

(b) Applications for grants, except where prohibited by law or the provisions of the grant, shall include a request for funds adequate to accomplish the objectives of the grant proposal, including monies to pay for the audit or audits of the financial transactions as required by law or the provisions of the grant. Monies budgeted for auditing a grant shall not be used for any other purpose.

(c) The term of employment of any individual or firm hired by the Public Auditor under the provisions of this section shall be expressly limited in duration by the availability of Federal funds and shall expire on the date of expiration of the Federal funds.

**Source**

RPPL 2-6 § 301, modified.

**Subchapter IV  
Authority to Gather Information; Criminal Penalties**

- § 271. Protection of whistleblowers.
- § 272. Access to agency information.
- § 273. Access to confidential information and proprietary records.
- § 274. Access to tax data.
- § 275. Access to contracts and grants information.
- § 276. Power to summon persons to testify.
- § 277. Referrals; criminal action.
- § 278. Referrals; civil action.
- § 279. Secrecy of records; penalty for violation.
- § 280. Penalties; failure to make proper audit; making false audit; failure to produce documents or information.

**§ 271. Protection of whistleblowers.**

(a) The Public Auditor may receive and investigate complaints or information from any person concerning the possible existence of any activity constituting fraud, waste and abuse in the collection and expenditure of public funds.

(b) The Public Auditor shall not, after receipt of a complaint or information from a person, disclose the identity of the person without the written consent of the person, unless the Public Auditor determines the disclosure is necessary and unavoidable during the course of the investigation. In that event, the person shall be notified in writing prior to the disclosure.

(c) Any person who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any person as reprisal for making any complaint or disclosing any information to the Public Auditor, unless the complaint made, or the information disclosed was with actual knowledge that it was false or with willful disregard for its truth or falsity.

**Source**  
RPPL 2-6 § 400, modified.

**§ 272. Access to agency information.**

(a) The Public Auditor in carrying out the provisions of this chapter shall have access to all records, reports, audits, reviews, papers, books, documents, recommendations, correspondence, and any other data and material that is maintained by, or available, to any agency which in any way relates to the activities to which the Public Auditor has duties and responsibilities. The Public Auditor shall request such information, cooperation, and assistance from any agency as may be necessary for carrying out his duties and responsibilities. Upon receipt of a request, each person in charge shall furnish to the Public Auditor or his designee the information, cooperation, and assistance requested. The Public Auditor may make such investigations, audits, and reports relating to the activities of the agencies audited as is necessary and may conduct any examination of any public documents. The Public Auditor shall have direct and prompt access to the head of any agency when necessary for any purpose pertaining to the performance of his duties.

(b) The Public Auditor may request the production, on a voluntary basis, of testimony or documents from any individual, firm, or nongovernmental entity which relate to his duties.

(c) The Public Auditor may require by summons, the production of all records, reports, audits, review, papers, books, documents, recommendations, correspondence, and any other data and material relevant to any matter under audit or investigation. The summons shall be served by the police in the same manner as the summons for the production of documents in civil cases issued on behalf of the Republic, and all provisions of law relative to the summons shall apply to summons issued under this chapter. Any justice of the Supreme Court of Palau may, upon application by the Public Auditor, issue an order to compel the production of records, audits, reviews, papers, books, documents, recommendations, correspondence, and any other data and material relevant to any matter under audit or investigation. Any failure to obey a court order is punishable by the court as contempt.

(d) Any summons issued under this section shall not be made public by the Public Auditor or any employee of his agency, or the police who serve the summons, nor shall any documents provided under this section be made public until such time as it is necessary for the Public Auditor to do so in the performance of his duties.

(e) The provisions of paragraphs (c) and (d) of this section shall apply to sections 273, 274, and 275.

**Source**  
RPPL 2-6 § 401, modified.

**§ 273. Access to confidential information and proprietary records.**

(a) Confidential or proprietary records or information disclosed to the Public Auditor shall be subject to the same legal confidentiality and protective restrictions in the Office of the Public Auditor as those records and information have in the hands of the official authorized custodian. Any penalties applicable to the officially authorized custodian or his employees for the violation of any confidentiality or protective restrictions applicable to those records or information shall also apply to the employees and agents of the Office of the Public Auditor.

(b) The Office of the Public Auditor may not publish any confidential or proprietary information or records in any report, including data and statistics, if that information as published is directly matchable to any individual.

(c) Inside the Office of the Public Auditor, confidential or proprietary records or information may be used only for official purposes.

**Source**  
RPPL 2-6 § 402, modified.

**§ 274. Access to tax data.**

(a) The Public Auditor or any members of his staff designated by him shall have authority to examine and audit the books and accounts of the Bureau of National Treasury including the Division of Revenue and Taxation, and shall have access to all papers, books, documents (including tax returns and tax return information), films, tapes, and any other forms of recordation, including computers and recording devices, which the Public Auditor, at his discretion, deems necessary for the purpose of making the audit, if the disclosure of information is not in contravention of any provision of law prohibiting the dissemination thereof.

(b) The Public Auditor and his designee may audit a taxpayer's or debtor's compliance with the law of the Republic in the same manner and with the same authority as the Chief and employees of the Division of Revenue and Taxation have to audit taxpayer's or debtor's compliance with the Republic's laws. The Public Auditor shall conduct his audit activities in accordance with an administrative plan agreed upon by the Director of the

Bureau of National Treasury and Public Auditor.

(c) The scope of the examination may include certification of financial accountability, legal compliance, or evaluations of the economy, efficiency, and effectiveness of the Bureau of National Treasury, or any combination of the foregoing.

(d) In the performance of the audit and examination of the Bureau of National Treasury, the Public Auditor or any members of his staff designated by him may inspect and make copies of any papers, books, records, instruments, documents (including tax returns and tax return information), films, tapes, and any other form of recordation, including computers and recording devices of the Bureau. He may call upon the Bureau for assistance and advice, and the assistance and advice shall be given through the assignment of personnel or in any other manner as requested.

**Source**  
RPPL 2-6 § 403, modified.

**§ 275. Access to contracts and grants information.**

Any contract to which an agency is a party, except a personal service or prime contract with an employee of the agency, and any grant awarded by any agency, with or without formal advertising, shall include a clause to the effect that the Public Auditor shall, until the expiration of three years after final payment, have access to and the right to examine and copy any records, data, or papers of any subcontractor or subgrantee, relevant to the contract or grant.

**Source**  
RPPL 2-6 § 404, modified.

**§ 276. Power to summon persons to testify.**

(a) Whenever the Public Auditor has a reasonable basis for believing that a person has information with respect to any matter which is within the Public Auditor's jurisdiction to investigate, he may require by summons the attendance and testimony under oath of the person.

(b) If necessary to secure enforcement, the Public Auditor shall provide to the judge or justice information concerning the matter under investigation which shall include: the name and address of the prospective witness; the subject of the investigation; a summary



of the status of the investigation; a summary of the reasons for requesting a summons for testimony; and a summary of the general scope of the inquiry to be made of a prospective witness.

(c) The summons shall be served in the same manner as a summons for a witness in a civil case issued on behalf of the Republic and all provisions of law relative to a summons issued in such a case shall apply to a summons issued under this section. A witness required by summons to attend and testify under oath and produce books and records shall be given not less than forty-eight (48) hours notice of the time and place of the taking of testimony, unless the notice shall unduly interfere with the conduct of the investigation and prior approval for a shorter period of time for the summons and notice has been obtained from the judge or justice. The witness, at the time of service of the summons, shall be notified of the matter under investigation concerning which the witness will be required to testify and shall be given a copy of the rules and procedures adopted by the Public Auditor and shall be notified that his testimony will be taken at a private session and that the issuance of the summons was approved by the judge or justice and whether the witness is a subject of an investigation. A subject of an investigation is a person whose conduct is within the scope of the investigation. The failure to furnish the witness with any notice or information required to be given by this section shall cause the summons to be invalid. In addition, the witness shall be notified that he has a right to consult with and to have an attorney present at the time the testimony is taken and that he has a constitutional right not to furnish or produce evidence which may tend to incriminate him.

(d) A person summoned to attend and testify shall appear and testify under oath before the Public Auditor or his designee.

(e) The information sought from the summoned witness must be reasonably related to the subject matter under investigation. No summons may be issued for the purpose of harassment or for any illegitimate or improper purpose. All constitutional and statutory rights and privileges which exist with respect to any summons issued by a court, including the privilege against self-incrimination, shall have the same force and effect with respect to any summons issued by the Public Auditor.

(f) Any justice of the Supreme Court may, upon application by the Public Auditor, issue an order to compel the attendance of witnesses summoned and the giving of testimony under oath in furtherance of any audit or investigations under this chapter in the same manner and to the same extent as before the Supreme Court of the Republic. Failure to obey the order of the court with respect to the summons may be punished by the court as

contempt.

**Source**

RPPL 2-6 § 405, modified.

**§ 277. Referrals; criminal action.**

(a) In carrying out his duties, the Public Auditor shall report to the Attorney General whenever the Public Auditor has reasonable grounds to believe there has been violations of Federal or the Republic's criminal law. The Attorney General may institute further proceedings.

(b) If the Public Auditor has reasonable grounds to believe the President or Attorney General has violated Federal or the Republic's criminal law, the Public Auditor may use his legal counsel or retain special counsel who shall serve as an Assistant Attorney General for purposes of investigating and prosecuting, if necessary, the criminal law violations.

**Source**

RPPL 2-6 § 406, modified.

**§ 278. Referrals; civil action.**

The Public Auditor shall have the authority to institute the civil recovery action in any case where the Public Auditor has discovered fraudulent acts and believe[s] that civil recovery proceedings may be appropriate.

**Source**

RPPL 2-6 § 407, modified.

**§ 279. Secrecy of records; penalty for violation.**

All records of the Public Auditor shall be confidential unless it is deemed necessary for the Public Auditor to make the records public in the performance of his duties. Violations relative to the secrecy of proceedings by the Public Auditor or any member of his staff shall be punished by imprisonment for not more than six (6) months or by a fine for not more than one thousand dollars (\$1,000).

**Source**  
RPPL 2-6 § 408, modified.

**§ 280. Penalties; failure to make proper audit; making false audit; failure to produce documents or information.**

(a) All agencies shall enter into their public record sufficient information for a proper audit, and shall make the same available to the Public Auditor at his request.

(b) Any person who wilfully fails or refuses to furnish or produce any book, record, paper, document, data, or sufficient information necessary to a proper audit which the Public Auditor is authorized by law to perform shall be guilty of an offense, punishable by not more than three (3) months imprisonment or a fine of one thousand dollars (\$1,000), or both.

(c) A willful failure or refusal by any person to furnish or provide upon request any book, record, paper, document, data, or sufficient information necessary to a proper audit which the Public Auditor is authorized by law to perform shall be cause for removal of the official or employee from their office as provided by law.

**Source**  
RPPL 2-6 § 409, modified.

**Chapter 3  
Annual National Budget**

**Subchapter I  
General Provisions**

- § 301. Short title.
- § 302. Purpose.
- § 303. Definitions.

**§ 301. Short title.**

This chapter may be cited as the “Budget Reform Act of 2001.”

**Source**

RPPL 6-11 § 2[301], modified.

**Notes**

The former Unified National Budget Act codified as Chapter 3 of Title 40 of the Palau National Code was repealed by the first clause of the first sentence of RPPL 6-11 § 2. The legislation directed the reuse of Chapter 3 section numbers to codify the Budget Reform Act of 2001.

RPPL 6-11 § 1 reads: Section 1. Legislative findings.

- (a) The Olbiil Era Kelulau finds that it is appropriate to enact new budgetary policies and procedures based on performance, so as to improve economy and efficiency in government operations, programs, and services.
- (b) The Olbiil Era Kelulau further finds that, especially regarding appropriation bills, heretofore existing laws governing repassage of bills referred back to the Olbiil Era Kelulau by the President pursuant to the Constitution, Article IX, section 15, are incomplete or unclear as to what changes may be made before resubmission to the President. A new section 407 of 3 PNC provides clear guidelines, in conformity with established legislative practice of both the Olbiil Era Kelulau and the President, regarding repassage of bills referred back to the Olbiil Era Kelulau.
- (c) The Olbiil Era Kelulau finds that there has been confusion in the past between the definitions of budget deficit and revenue deficit, and seeks to clarify these terms in this bill. Legislation prohibits spending over an amount appropriated, and these new definitions intend to eliminate misunderstanding and provide meaningful definitions.

**§ 302. Purposes.**

The purposes of this chapter are:

- (a) to repeal the Unified National Budget Procedure Act of 1981 and enact national government budget and finance policies and procedures that are appropriate to the Republic's political status and contemporary budget practices;
- (b) to establish performance reporting requirements to:
  - (1) generate information that allows the determination of the extent to which national government programs and services are economical and successful;
  - (2) develop well-defined goals and priorities for national government agencies and programs;
  - (3) strengthen the accountability of the national government to citizens and taxpayers by providing a record of the national government's performance in providing effective and efficient services; and
  - (4) create appropriate incentives to encourage national government employees to perform efficiently and to the best of their ability; and
- (c) to establish guidelines for the expenditure and monitoring of capital improvement project funding by national and state governments.

**Source**

RPPL 6-11 § 2[302], modified.

**Notes**

Mesubed v. ROP, 10 ROP 62, 64, 66 (2003).

**§ 303. Definitions.**

In this chapter:

- (a) "Agency" means any entity established or funded by law of the Republic or a local government. Agency includes, but is not limited to, the following entities and their officers, directors, employees, and independent contractors: any authority, board, branch, bureau, commission, cooperative, council, division, fund, group, institution, political

division, office, public corporation, or state government, including any autonomous or semi-autonomous governmental entity.

(b) “Annual national budget” means a consolidated budget reflecting the total estimated revenues anticipated and their proposed uses for general operations, debt service, capital improvement projects, and other lawful purposes.

(c) “Appropriation item” means a sum allocated to an identified budget activity.

(d) “Appropriation bill” means a bill that proposes the appropriation of funds from the National Treasury for specified purposes.

(e) “Authorization” means a provision establishing authority to appropriate funds for a budget activity.

(f) “Balanced budget” means all or part of an annual national budget in which estimated revenues and other available resources equal authorized expenditures for all or the corresponding part of the budget during a fiscal year.

(g) “Budget activity” means a purpose proposed for funding.

(h) “Budget call” means written instructions of the President of the Republic to any budget activity regarding preparation of an annual budget, including without limitation format, order, arrangement, contents, narrative justification, and due date.

(i) “Budget deficit” means the amount by which the authorized budget spending level exceeds the actual revenues collected.

(j) “Budget surplus” means the amount by which sums appropriated exceed actual expenditures and obligations for a fiscal year; obligations and expenditures are held below the level of actual receipts creating savings within the authorized budget.

(k) “Budget year” is the fiscal year.

(l) “Capital improvement project” (“CIP”) means any of the following undertakings of the national government or a state government:

(1) any construction or renovation on the real property of the Republic or of a state, for any permanent physical facility, including architecture and engineering

and other construction and planning studies;

(2) any physical improvement which has an estimated useful life longer than one year and is made to a leased property or to an occupied property owned by a government entity;

(3) any acquisition of an interest in land or permanent fixtures on land, or any matching funds for any United States or foreign grants within the meaning of subsections(1) or (2) required because of the activities described in subsections (1) or (2).

(m) “Compact” means the Compact of Free Association between the Republic of Palau and the United States Government and any subsequent laws and subsidiary agreements pertaining thereto.

(n) “Fiscal year” means the twelve (12) month period from October 1 of one calendar year through September 30 of the next calendar year.

(o) “General fund” is the fund into which national government revenue collections are credited for discretionary appropriations.

(p) “General operations” means annual budgetary operations of the executive, legislative, and judicial branches of the national government, operating grants and subsidies to state governments, non-governmental organizations, and other programs and activities of the national government.

(q) “Item” means a positive sum, a single amount appropriated for a specified purpose.

(r) “Item reduction” or “line item reduction” is the presidential power of an item provided in Article IX, Section 15 of the Constitution, which allows the President to reduce specific sums in an appropriation bill passed by the Olbiil Era Kelulau.

(s) “Item veto” or “line item veto” is the presidential veto power of an item provided in Article IX, Section 15 of the Constitution.

(t) “Performance measure” means a quantifiable standard of government accomplishments, results, efficiency, or cost-effectiveness.

(u) “Program” means a group of related services or activities provided or administered by

an agency and accounted for in its budget.

(v) “Recurring budget activities” means regular and on-going activities of the national government requiring annual appropriations and excludes one-time-only appropriation items or completed programs or activities.

(w) “Reprogramming” means the reallocation of appropriated funds from one appropriation item to any other appropriation item.

(x) “Restricted local revenues” means revenues collected from all domestic sources and designated for specific purposes or programs.

(y) “Revenue deficit” means revenue shortfall; the amount by which actual revenues fall short of anticipated receipts.

(z) “Revenue surplus” means the amount by which actual receipts exceed the amount of receipts anticipated.

(aa) “Service population” means the recipients, users, and beneficiaries of an agency’s activities or the subject of an agency’s regulation.

(bb) “Unrestricted local revenues” means revenues collected from all domestic sources not designated for specific purposes or programs.

**Source**

RPPL 6-11 § 2, modified.

**Subchapter II**

**Annual National Budget Procedures**

§ 321. Annual budget preparation.

§ 322. Budget call.

§ 323. Annual budget requirements.

§ 324. Preparation and introduction of annual national budget.

§ 325. Item veto or reduction.

§ 326. Balanced annual national budget.

§ 327. Continuing budget authority.

§ 328. Lapsing of appropriated funds.

§ 329. Funds availability analysis.



§ 330. Cyclical reserve fund.

§ 331. Climate resilience reserve Fund.

**§ 321. Annual budget preparation.**

The President shall prepare and introduce an annual budget bill in the Olbiil Era Kelulau. Funding for general operations, debt service, and capital improvement projects may be proposed in separate bills or in a unified budget. A consolidated bill or the sum of separate bills, with supporting documentation, shall constitute the annual national budget.

**Source**

RPPL 6-11 § 2.

**§ 322. Budget call.**

The President shall issue a budget call and prescribe the format, order, arrangement, and contents of the annual budget for all budget activities. The annual budget amounts of any budget activity that fails to respond to the budget call on or before the second Tuesday of June shall be established by the President.

**Source**

RPPL 6-11 § 2. Amended by RPPL 7-7 § 20, modified. Amended by RPPL 7-51 § 4. Amended by RPPL 11-13 § 4.

**§ 323. Annual budget requirements.**

The annual budget shall contain:

- (a) a funds availability analysis;
- (b) schedules detailing actual expenditures and obligations for the past fiscal year and providing estimated expenditures and obligations for the current and next fiscal years;
- (c) a list of personnel and salaries for each budget activity listed in the national budget at the end of the last fiscal year, the current fiscal year, and projected for the next fiscal year;
- (d) operation and maintenance impact statements for capital improvement projects;

- (e) details of current or proposed investments and all outstanding or proposed loans to the national government;
- (f) a statement of the balance of the general fund and any other funds of the National Treasury for the last fiscal year and the projected year-end balance for the current fiscal year;
- (g) a budget report by the President summarizing the last fiscal year and a statement of objectives and strategies explained with reference to the Palau National Master Development Plan (PNMDP) and the Economic Development Plan. The budget report shall summarize all anticipated revenues and relate them to proposed expenditures and obligations. The budget report shall also summarize the financial condition of the Republic; and
- (h) such other data that the President includes to explain and justify the proposed annual national budget.

**Source**

RPPL 6-11 § 2, modified.

**§ 324. Preparation and introduction of annual national budget.**

The annual national budget shall be prepared and introduced as follows:

- (a) The head of each budget activity shall submit a proposed operating budget for the next fiscal year, in accordance with budget call instructions, not later than the second Tuesday of June of each year. Heads of budget activities may also submit requests for funding for capital improvement projects; such requests shall be transmitted and justified separately from operating budget funding requests. For budget planning and balancing purposes, the Olbiil Era Kelulau and Judiciary shall submit to the President summary amounts for their respective proposed operational budget activities.
- (b) The President shall introduce an authorization and appropriation bill and submit annual budget documentation to the Olbiil Era Kelulau by [the] first day of the July Regular Session of each year except that, for the fiscal year 2011 only, the President may submit annual budget documentation to the Olbiil Era Kelulau on or before May 31<sup>st</sup>. Sums proposed to be authorized need not be proposed for appropriation in the same bill.

**Source**

RPPL 6-11 § 2, modified. Subsections (a) and (b) amended by RPPL 6-12 § 21. Subsections (a) and (b) amended

by RPPL 7-7 § 21. Subsection (b) amended by RPPL 8-15 § 10. Amended by RPPL 9-5 § 25.

**Notes**

The bracketed [the] in subsection (b) does not appear in the original legislation.

**§ 325. Item veto or reduction.**

The President may reduce or veto an item in an appropriation bill and sign the remainder of the bill, returning the item reduced or vetoed to each house within fifteen (15) calendar days together with the reason for his action.

**Source**

RPPL 6-11 § 2, modified.

**§ 326. Balanced annual national budget.**

The annual national budget shall be a balanced or surplus budget in which the total of all estimated receipts is equal to or greater than the proposed total appropriations.

**Source**

RPPL 6-11 § 2.

**§ 327. Continuing budget authority.**

If an annual budget is not enacted by the beginning of a fiscal year, continuing budget authority may be enacted for all regular budget activities of the national government (for the purposes of this section, regular budget activities of the national government shall include State Block Grants). Continuing budget authority shall provide funding at the level of appropriations of the previous budget year until an annual budget for the fiscal year is enacted. Authorizations and appropriations of United States grant funds under these circumstances are conditional on such funds being made available to the Republic.

**Source**

RPPL 6-11 § 2. Amended by RPPL 9-63 § 3.

**§ 328. Lapsing of appropriated funds.**

Unless otherwise provided by law, all appropriations shall lapse at the end of the fiscal year. Non-lapsing appropriations with unexpended balances shall be deemed lapsed provided such

appropriations activities have been completed or inactive for two (2) consecutive fiscal years, and have no outstanding encumbrances or legally enforceable obligations.

**Source**

RPPL 6-11 § 2. Amended by RPPL 11-12 § 29.

**§ 329. Funds availability analysis.**

(a) The President shall submit a funds availability analysis with each authorization or appropriation bill. The funds availability analysis must be approved by the President and the Olbiil Era Kelulau, and the itemized summary provided in subsection (b)(1) shall become part of the appropriation bill in support of which it is submitted. For the annual national budget, the President shall submit a funds availability analysis for the preceding fiscal year, the current fiscal year, and the next two fiscal years.

(b) A funds availability analysis for a fiscal year shall contain, but need not be limited to:

(1) an itemized summary of revenue projections, by source, and appropriations or proposed appropriations. Revenue projections shall include all grants, from all sources, anticipated to be available for obligation during the budget year; and

(2) a detailed schedule of actual revenues for the preceding fiscal year, original revenue projections for the current national budget, and revenue projections for the two fiscal years immediately following the current fiscal year. The detailed schedule shall include an explanation of the basis for all revenue projections, including revenues from grants, providing sufficient detail to show that the projections are reasonable.

**Source**

RPPL 6-11 § 2.

**§ 330. Cyclical reserve fund.**

(a) A permanent “Cyclical Reserve Fund” is hereby established into which the following revenues shall be deposited and managed and invested by the COFA Board of Trustees:

(1) beginning in Fiscal Year 2021, and every Fiscal Year thereafter, an amount not less than two (2%) percent of actual unrestricted local revenue collections from the preceding fiscal year;

- (2) after allowance for the needs of normal cash flow management, as supported by a cash flow analysis, all prior year unappropriated general fund surplus balance, and the specific allowance for normal cash flow management shall be specified by regulation; and
  - (3) any additional funding sources identified annually and specified in the annual budget.
- (b) Shortfalls in the value of the fund below target will be replenished until such time as the fund has attained the target value;
- (c) Earnings of the fund will be accumulated in the fund until such time as the value of the Cyclical Reserve Fund has attained a target value of three (3) months of general fund local revenues averaged over the previous three (3) fiscal years.
- (d) The Cyclical Reserve Fund may be used only for the following purposes:
- (1) if at any time after the second quarter of a fiscal year, the collected local revenue is at least five (5%) percent less than the originally projected local revenue, then the Cyclical Reserve Fund may be utilized to offset the shortfall in local revenue in that Fiscal Year, to support duly authorized and appropriated expenditures, provided that a cash flow analysis is established to substantiate the shortfall;
  - (2) funds in excess of the target will be deposited in the Climate Resilience Reserve Fund until the Climate Resilience Reserve Fund, provided for in section 331, has attained its target;
  - (3) Cyclical Reserve Funds may be appropriated for emergency expenditures under a declared state of emergency, in accordance with Article VIII, Section 14 of the Republic of Palau Constitution, but may only be appropriated if the Climate Resilience Reserve Fund has been exhausted and insurance and other disaster funds have been depleted;
  - (4) funds in excess of the target may be drawn on to fund non-recurrent operations and additions to national financial and non-financial assets, including CIP projects, subject to authorization and appropriation; and
  - (5) funds in excess of the target may be drawn up onto pay or settle outstanding

debts including establishing or providing additional hinds for Loan Reserve Accounts pursuant to debt service agreements, subject to authorization and appropriation.

(c) A statement of account of the Cyclical Reserve Fund will be published annually, including opening and closing balances, all transactions during the year, and the size of the fund in relation to its target size.

**Source**

RPPL 6-11 § 2, modified. RPPL 6-26 § 22 repeals subsection (a)(2) and subsection are renumbered accordingly. Amended in its entirety by RPPL 9-15 § 21, modified. Subsection (b)(1) amended by RPPL 10-42 § 46. Subsection (b) amended by RPPL 10-53 § 13. Amended by RPPL 11-13 § 4.

**§ 331. Climate resilience reserve fund.**

(a) A permanent “Climate Resilience Reserve Fund” is hereby established. The following revenues shall be deposited into the fund and managed and invested by the COFA Board of Trustees:

(1) beginning in Fiscal Year 2021, and every Fiscal Year thereafter, an amount not less than one (1%) percent of actual unrestricted local revenue collections from the preceding fiscal year; and

(2) any additional funding sources identified annually and specified in the annual budget.

(b) Funds shall be deposited until the Climate Resilience Reserve Fund has attained a target value which shall be specified in regulations and updated periodically with notice from the Minister to the Olbiil Era Kelulau.

(c) Shortfalls in the value of the fund below target will be replenished until such as time as the fund has attained the target value.

(d) Earnings of the fund will be accumulated in the Climate Resilience Reserve Fund.

(e) The Climate Resilience Reserve Fund may be used only for the following purposes:

(1) for emergency expenditures appropriated under a declared state of emergency, in accordance with Article VIII, Section 14 of the Constitution of the Republic of

Palau; and

(2) payment of premiums for climate or natural disaster insurance.

(f) Funds in excess of the target may be drawn on to fund climate change-related projects or programs and to finance natural disaster mitigation activities and programs.

(g) A statement of account of the Climate Resilience Reserve Fund will be published annually, including opening and closing balances, all transactions during the year, and the size of the fund in relation to its target size.

**Source**

RPPL 6-11 § 2. Amended by the second to the last sentence of RPPL 7-13 § 28, modified. Amended by RPPL 11-13 § 4.

**Notes**

The last sentence of RPPL 7-7 § 16 read: “Henceforth, all subsequent outside grants and development assistance, for the next fiscal year and thereafter, shall be subject to authorization and appropriation by the Olbiil Era Kelulau.”

**Subchapter III  
Budget Authority of the President**

§ 351. Reprogramming authority.

§ 352. Impounding funds.

**§ 351. Reprogramming authority.**

(a) The President may reprogram appropriated funds, having due regard for the effective reprogramming on the performance of affected budget activities, as follows:

(1) Up to ten percent (10%) of appropriated funds from any general operations appropriation item in a fiscal year may be reprogrammed out to any other budget activity, except as otherwise provided by law. No budget activity appropriations may be increased by reprogramming by more than fifteen percent (15%) of its original appropriations except as otherwise provided by law.

(2) Up to ten percent (10%) of appropriated funds from any CIP appropriation item in a fiscal year may be reprogrammed to any other CIP appropriation item, except as otherwise provided by law.

(3) Capital improvement project funds may be reprogrammed only to other capital improvement projects.

(4) General fund appropriations may be reprogrammed to capital improvement projects or Compact-funded appropriation items.

(5) At least ten (10) days prior to any reprogramming, the President shall inform the Committee on Ways and Means of each house of the Olbiil Era Kelulau of the actual and percentage amounts to be reprogrammed, the reasons for reprogramming, and the purpose for the reprogramming.

(b) The President of the Senate and the Speaker of the House of Delegates may reprogram up to ten percent (10%) of funds, cumulatively in a fiscal year, appropriated to the Senate and House, respectively, and to any office of the Senate and House, respectively, except as otherwise provided by law. The Senate President and House Speaker may jointly reprogram up to ten percent (10%) of the funds, cumulatively in a fiscal year, appropriated to any joint office of the Olbiil Era Kelulau, except as otherwise provided by law.

(c) The Chief Justice of the Supreme Court may reprogram up to ten percent (10%) of funds, cumulatively in a fiscal year, appropriated to the Judicial Branch, except as otherwise provided by law.

(d) No new budget activity may be created as a result of reprogramming.

#### Source

RPPL 1-16 § 10, modified. Subsection (a) amended by RPPL 4-36 § 7. Subsection (c) added by RPPL 5-7 § 45. RPPL 6-11 § 2 repeals Subchapter III of Title 40 in its entirety and replaced with new §§ 351 & 352. Subsections (a)(1) and (a)(2) amended by RPPL 7-7 § 23. Subsection (a)(1) amended by RPPL 7-13 § 16(b).

#### Notes

Mesubed v. ROP, 10 ROP 62, 64 (2003).

### § 352. Impounding funds.

The President may, from time to time, take action to impound or otherwise prevent the obligation or expenditure of budget authority for the balance of the budget year, or the period of the appropriation authority, in order to prevent a budget deficit or revenue deficit or create government savings, budget surplus, or revenue surplus; provided that the President shall immediately notify the Olbiil Era Kelulau of any such action and the reasons thereof.



**Source**

RPPL 1-16 § 12, modified. Amended in its entirety by RPPL 6-11 § 2.

**Notes**

The title of this section reads “Recissions and deferrals” in RPPL 6-11 § 2.

Gibbons v. Seventh Koror State Legislature, 11 ROP 97, 108, 109 (2004).

**Subchapter IV  
Performance Reporting**

- § 371. Performance reports.
- § 372. Attestation.
- § 373. Performance review.
- § 374. Office of the Attorney General.

**§ 371. Performance reports.**

(a) Every agency shall prepare a performance report for the programs and services it administers or provides. The report shall include each of the following items or an explanation of why an item does not apply to a program or service:

- (1) a statement of the agency’s functions, responsibilities, and objectives as set forth by Executive Order or statute;
- (2) performance measures, including measures of results of continuing activities, results of completed activities, economy, and efficiency of each service and program;
- (3) identification of service populations served by each service or program and explanations of how those populations are expected to change within the period of the report;
- (4) proposals for collecting new performance information;
- (5) a list of all personnel positions including a job description and the salary for each position;
- (6) documentation and analysis of past and projected performance of programs

and services; and

(7) performance objectives as an incentive for improving programs and services.

(b) Every agency shall issue a first report in fiscal year 2002 and annually thereafter. A report shall cover the last, current, and next fiscal year from the date it is required to be issued, including previous forecasts and actual performance. Copies of each report shall be made available for public inspection.

(c) Each agency shall submit its report to the President, the Olbiil Era Kelulau, and the Public Auditor by not later than April 15<sup>th</sup> of each year.

(d) The President shall:

(1) develop format, forms, and instructions and coordinate training to assist agencies in the preparation of their reports;

(2) assist agencies in determining acceptable measures of staff workload, unit costs, and productivity; and

(3) request any needed additional information concerning any agency performance report submitted.

(e) The President shall ensure that performance reports are complete, accurate, and reasonably self-explanatory. The President shall maintain an automated performance data records system for performance reports and may require additional information from the agencies necessary to meet the requirements of this subsection.

**Source**

RPPL 6-11 § 2[371]. Subsection (c) amended by RPPL 7-7 § 22, modified.

**Notes**

Section 22 of RPPL 7-7 § 22 reads as follows:

“§ 371. Performance reports.

(a) Every agency shall prepare a report . . . .

. . . .

(c) agency shall submit its report to the President, the Olbiil Era Kelulau, and the Public Auditor by not later than April 15<sup>th</sup> of each year.

. . . .”

**§ 372. Attestation.**

Beginning in fiscal year 2002 and at least once every two years thereafter, the Public Auditor shall review each agency's performance report and comment on the reasonableness, appropriateness, validity, and reliability of the performance measures and data collection efforts. The Public Auditor shall report his or her findings to the agencies reviewed, the President, and the presiding officer of each house of the Olbiil Era Kelulau.

**Source**  
RPPL 6-11 § 2[372].

**§ 373. Performance review.**

The Olbiil Era Kelulau shall conduct performance reviews during the second regular session of each calendar year to determine the success of agencies in carrying out their mandates and the outcomes desired and to develop consensus on agency missions and goals. Performance reports shall be utilized in the budget appropriation process to provide the basis for agency funding and to facilitate the allocation and distribution of funds available for appropriation.

**Source**  
RPPL 6-11 § 2[373].

**§ 374. Office of the Attorney General.**

All funds authorized for appropriation, and appropriated pursuant to this section used to pay for the employment or salary of attorneys or other personnel not solely employed by the Office of the Attorney General shall be accounted for and listed in a report prepared by this Office at the beginning of each fiscal year but no later than October 30<sup>th</sup> of each year. Any changes in the payment of attorneys or other personnel not solely employed by the Office of the Attorney General throughout the year shall be submitted, in writing, to the Olbiil Era Kelulau within fifteen (15) days of the change. The list shall include the name of the employees, their primary employer, and all payments made from the Office of the Attorney General's allocated budget.

**Source**  
RPPL 7-25 § 2(a)(8), modified.

**Subchapter V**  
**Capital Improvement Projects (“CIP”)**

- § 381. Operations and maintenance impact statement.
- § 382. Administrative costs and project budget.
- § 383. Change orders.
- § 384. Inspection.
- § 385. Contractor/company disqualification.
- § 386. Quarterly project report.
- § 387. Project completion report.
- § 388. Update of economic development plan.

**§ 381. Operations and maintenance impact statement.**

All requests for funding for capital improvement projects shall be accompanied by an operations and maintenance impact statement. Such statement shall include, but shall not be limited to, the following:

- (a) a description of the project, including a summary of its costs and benefits, including:
  - (1) a justification of the project; and
  - (2) a statement confirming its consistency with the Palau National Development Plan or Economic Development Plan;
- (b) a project schedule, including the anticipated time requirements for planning, design, procurement, and construction;
- (c) the estimated capital costs of the project, including costs for administration, design, construction, inspection, and contingencies;
- (d) the status of land ownership, rights of way, and easements;
- (e) the estimated useful life of the project;
- (f) the project management agency and eventual project user or project owner; and
- (g) the estimated total annual operation and maintenance costs of the project, including utilities, operations, parts, maintenance, landscaping or grounds keeping, custodial

services, security services, and other specialized services.

**Source**  
RPPL 6-11 § 2.

**§ 382. Administrative costs and project budget.**

Where appropriate CIP projects funded in whole or in part by the national government shall be charged administrative costs. The means of determining administrative costs shall be set forth in rules and regulations established by the Minister of Public Infrastructure and Industries and shall be directly related to each project.

**Source**  
RPPL 6-11 § 2.

**§ 383. Change orders.**

The CIP Office must transmit a copy of each change order to the Olbiil Era Kelulau for approval or disapproval where the cumulative amount of change orders for a CIP project equals ten percent (10%) or greater of the estimated capital costs of the project as contained in the “Operations and Maintenance Impact Statement” required in section 381. The Senate President and the Speaker of the House, or in either’s absence, a Presiding Officer, shall approve or disapprove the change order within fifteen (15) working days of receipt of the change order. If the Senate President and the Speaker of the House do not act within fifteen (15) working days of receipt of the change order, the change order is presumed to be approved.

**Source**  
RPPL 6-26 § 26. The RPPL 6-11 § 2 version of section 383 was effectively re-codified as section 384 by RPPL 6-26 § 26.

**§ 384. Inspection.**

(a) All capital improvement projects financed in whole or in part by the national government shall be inspected during construction by personnel from the Ministry of Public Infrastructure and Industries’ CIP Office, or by a qualified, licensed engineer appointed by the CIP Office, to ensure that construction conforms to architectural and engineering plans and specifications. By January 1, 2003, all inspections shall be conducted and certified by an engineer who has received an advanced degree in engineering from an accredited institution of higher learning.

(b) CIP project managers and engineers shall review daily, weekly, and monthly inspection reports and shall approve or disapprove the same. If a project manager determines that a project is not proceeding satisfactorily, the project manager shall take immediate action to ensure proper construction and compliance with the architectural and engineering plans and specifications for the project.

(c) Until a comprehensive national building code is enacted, the Minister of Public Infrastructure and Industries shall establish rules and regulations to ensure that each project is designed, engineered, and constructed in accordance with acceptable standard architectural, engineering, and construction procedures and methods, having due regard also for energy efficiency. Any capital improvement project that falls below acceptable standards shall be subject to immediate action by the CIP Office to ensure that the project is brought into compliance within a reasonable time with appropriate architectural, engineering, and construction standards.

**Source**

RPPL 6-26 § 26. The RPPL 6-11 § 2 version of section 384 was effectively re-codified as section 386 by RPPL 6-26 § 26.

**§ 385. Contractor/company disqualification.**

(a) Should a capital improvement project fall below acceptable architectural, engineering and construction standards the CIP Office may bring an administrative action to bar the offending company, contractor(s) or subcontractor(s), from bidding on or participating in the completion of a CIP project for up to five (5) years;

(b) Within thirty (30) days of the effective date of this chapter, the Ministry of Public Infrastructure and Industries shall promulgate rules and regulations governing the administrative disqualification procedures. The administrative procedures shall comply with all requirements of due process, including, but not limited to:

(1) notice to the party of the specific allegations, the penalty sought by the Ministry of Public Infrastructure and Industries, and a description of the disqualification process;

(2) a right to be heard and present evidence to the presider of the administrative hearing; and

(3) an opportunity to appeal the administrative decision to the Supreme Court of

Palau within thirty (30) days.

**Source**  
RPPL 6-26 § 26.

**§ 386. Quarterly project report.**

The Minister of Public Infrastructure and Industries shall within thirty (30) days after the end of each quarter submit to the President and the presiding officers of the Olbiil Era Kelulau a status report describing each CIP project administered or supervised by the Ministry. The report shall include for each project:

- (a) commencement and completion dates, and the budget for major components of the project, such as land excavation, design, and construction and a description of each;
- (b) the project title;
- (c) a brief description of the project;
- (d) the total project funding and a budget breakdown of project components;
- (e) the name of consultants and contractors responsible for the project's design and construction;
- (f) the approximate percentage of completion of each major project component, such as land project design, preparation, and construction;
- (g) approximate expenditures to date for each project category;
- (h) a brief description of progress since the last reporting period; and
- (i) a brief description of any problems, major issues, or change orders encountered on the project.

**Source**  
RPPL 6-26 § 26. The RPPL 6-11 § 2 version of section 386 was effectively re-codified as section 388 by RPPL 6-26 § 26.

**§ 387. Project completion report.**

When the Minister of Public Infrastructure and Industries has determined that a project has been completed and it is appropriate that the project be administratively closed, within thirty (30) days of such determination, he or she shall prepare a written project completion report to the Minister of Finance and the presiding officers of the Olbiil Era Kelulau. The project completion report shall include the same information that appears in the quarterly project report; provided, that the project completion report shall also include a final funding status of the project. A copy of the project's operations and maintenance impact statement shall be attached to the project completion report. The project is officially completed and closed upon the liquidation of all financial obligations by the Minister of Finance.

**Source**

RPPL 6-26 § 26, modified. The RPPL 6-11 § 2 version of section 385 was effectively re-codified as section 387 by RPPL 6-26 § 26.

**§ 388. Update of economic development plan.**

The National Economic Development Plan (EDP) shall be updated whenever an appropriation is made for a CIP project that is not included in the EDP.

**Source**

RPPL 6-26 § 26. The RPPL 6-11 § 2 version of section 386 was effectively re-codified as section 388 by RPPL 6-26 § 26.



**Chapter 4**  
**Government Funding**

- § 401. Projects, programs, and operations financed by the Olbiil Era Kelulau.
- § 402. [Repealed]
- § 403. [Repealed]
- § 404. Avoidance of future prior year debts.
- § 405. Investment of unobligated balances.
- § 406. Responsible administration of funds; civil and criminal penalties for expenditures in excess of appropriation; taxpayer standing; attorneys fees.
- § 407. Compact of Free Association Board of Trustees.
- § 408. Trust fund administration.
- § 409. Procedures for withdrawal of invested public funds; amendment; repealer; liability for improper withdrawal; taxpayer standing and attorney fees.
- § 410. Appropriations for the Legislature.
- § 411. Earmarking of funds.
- § 412. Water and wastewater charges.
- § 413. Our Ocean Conference 2020 Fund.
- § 414. Southwest Island field trips/Sonsorol & Hatohobei.

**§ 401. Projects, programs, and operations financed by the Olbiil Era Kelulau.**

(a) Unless otherwise specified by law, all projects and operations financed by means of appropriation laws of the Olbiil Era Kelulau shall be contingent upon the availability of funds. No person shall obligate or expend any funds made available or appropriated by the Olbiil Era Kelulau until he receives written certification from the National Director of Program, Budget and Management for expenditures and obligations of the executive branch, from the budget officer for expenditures and obligations of the Olbiil Era Kelulau, or from the Chief Justice for expenditures and obligations of the judicial branch, that funds are available and that obligations may be incurred.

(b) No person shall enter into any contract which purports to obligate public funds or which purports to obligate funds from any appropriation, apportionment, reapportionment, or allotment of funds made available or appropriated by the Olbiil Era Kelulau or of public funds from any other source whatsoever, unless the National Director of Program, Budget and Management, the budget officer or the Chief Justice first certifies in writing on the document to be used as a contract that funds are available to complete the contract. Any contract entered into in violation of this subsection shall be void. The National Director of Program, Budget and Management is authorized to allot

funds to the various projects of the executive branch financed by an Act of the Olbiil Era Kelulau either monthly or quarterly or as needed to pay specific obligations which have previously been authorized by the National Director of Program, Budget and Management, as the necessary revenues are deposited in the National Treasury.

(c) Any person obligating or expending funds of the National Treasury without written authorization as specified in this section, shall be personally liable for the payment of such obligations or expenditures unless the Olbiil Era Kelulau by joint resolution subsequently approves or ratifies said obligation, and provides for the satisfaction thereof.

**Source**

PDC § 107, as amended by PL 7-5-4 § 2, as amended by RPPL 1-51 § 11, modified.

**Notes**

Toribiong v. Whipps, 2016 Palau 4 ¶ 2.  
The Senate v. Nakamura, 8 ROP Intrm. 190, 191 (2000).  
The Senate v. Nakamura, 7 ROP Intrm. 212, 216, 218, 219, 220 (1999).  
Sixth Kelulul a Kiuluul v. Ngiramekatii, 5 ROP Intrm. 321, 324 (Tr. Div. 1995).  
ROP v. Etpison, 5 ROP Intrm. 313, 318 (Tr. Div. 1995).  
Kingon v. ROP, 2 ROP Intrm. 72, 74, 75 (1990).  
Orion Telecommunications, Ltd. v. PNCC, 1 ROP Intrm. 633A, B, 642 (1989).

**Cross-reference**

For reporting of Ministry of Public Infrastructure and Industries projects, *see* 2 PNCA § 120.

**§ 402. [Repealed]**

**Source**

PDC § 105(a), as amended by PL 7-5-4 § 3 and RPPL 3-11 § 1, modified. Repealed by RPPL 3-54 § 64.

**Notes**

Gibbons v. ROP, 1 ROP Intrm. 634, 641-46 (1989).

**§ 403. [Repealed]**

**Source**

PDC § 105(b), as amended by PL 7-5-4 § 3, PL 7-6-1 § 1 and RPPL 3-11 § 1, modified. Repealed by RPPL 3-54 § 64.

**Notes**

Gibbons v. ROP, 1 ROP Intrm. 634, 641 (1989).

**§ 404. Avoidance of future prior year debts.**

Should the President, by the beginning of any quarter of a fiscal year, project expenditures to

exceed appropriations for that year, he shall immediately take one or more of the following actions and notify the Olbiil Era Kelulau:

- (a) reprogram within discretionary presidential authority,
- (b) submit legislation to reprogram amounts in excess of presidential discretionary authority,
- (c) submit supplemental appropriations legislation, and
- (d) institute a reduction-in-force under Part 8, Section 8.4 of the Rules and Regulations of the Public Service System.

Should the above actions fail to prevent the accrual of year-end debts, the President shall, within thirty (30) days after the end of such fiscal year, reduce all current year allocations for that budget activity by amounts equal to the unpaid debts from the prior year, and so notify the Olbiil Era Kelulau.

**Source**

RPPL 3-70 § 6, modified.

**Notes**

Toribiong v. Whipps, 2016 Palau 4 ¶ 2.

**§ 405. Investment of unobligated balances.**

Cash in excess of immediate needs shall at all times remain invested in accordance with the National Government Investment Plan, at the direction of the President; excess cash includes, but is not limited to, unobligated balances of appropriations and revenues collected in excess of appropriations.

**Source**

RPPL 4-40 § 22, modified and RPPL 4-55 § 23. Identical language previously enacted in RPPL 4-32 § 38.

**Notes**

Toribiong v. Whipps, 2016 Palau 4 ¶ 2.

**§ 406. Responsible administration of funds; civil and criminal penalties for expenditures in excess of appropriations; taxpayer standing; attorneys fees.**

(a) No person may expend, obligate, or certify the expenditure or obligation of any public funds for any purpose in excess of the amount appropriated by law for that purpose. No person may direct or authorize anyone, over whom that person has any supervisory authority, to expend, obligate, or certify the expenditure or obligation of any public funds for any purpose in excess of the amount appropriated by law for that purpose.

(b) No person may discipline or otherwise alter the employment status of a public employee based on the employee's refusal to violate subsection (a) of this section.

(c) Any person who violates subsection (a) or (b) of this section shall be:

(1) jointly and severally liable to pay to the National Treasury civil damages equal to the greater of two thousand five hundred dollars (\$2,500) or the amount of any expenditure or obligation in excess of that appropriated by law, plus interest at the maximum rate allowable by law; and

(2) subject to a criminal fine not to exceed five hundred thousand dollars (\$500,000), imprisonment for not more than two (2) years, or both.

(d) In addition to any other person or entity entitled to bring an action to enforce the provisions of this section, any person who pays taxes in the Republic of Palau may bring a civil action in the Trial Division of the Supreme Court to enforce subsection (c)(1) of this section, and to recover for deposit into the National Treasury public funds expended in excess of appropriations, and to obtain equitable relief to ensure compliance with this section. A taxpayer prevailing in an action brought under this section may be awarded reasonable costs and attorneys' fees actually incurred in the prosecution or defense of such an action, at the discretion of the court.

**Source**

RPPL 4-40 § 37, modified. Amended by RPPL 4-48 § 2(37).

**Notes**

Republic of Palau v. Ngarchelong State Gov't, 2019 Palau 5 ¶¶ 9, 12, 17, 18.

Toribiong v. Whipps, 2016 Palau 4 ¶¶ 2, 5, 6, 7.

Mesubed v. ROP, 10 ROP 62, 63, 64, 65, 66, 67 (2003).

Shmull v. Rosenthal, 8 ROP Intrm. 261 (2001).

The Senate v. Nakamura, 8 ROP Intrm. 190, 191, 193, 194 (2000).

In re Perrin, 8 ROP Intrm. 165, 167 (2000).

**§ 407. Compact of Free Association Board of Trustees.**

- (a) There shall be a five (5) member Board of Trustees to administer the Trust Fund created in section 211(f) of the January 10, 1986 Improved Compact of Free Association.
- (b) The President of the Republic shall appoint five (5) members to the Board of Trustees subject to the advice and consent of the Senate. Members of the Board shall serve terms of four (4) years. The President may terminate a member of the Board of Trustees for cause only.
- (c) To be appointed to the Board of Trustees, candidates must either:
  - (1) have demonstrated five years of direct work experience in financial matters; or
  - (2) have received a recognized four-year degree from an accredited institution of post-secondary education, preferably in such relevant fields as investments, law, business administration or management, accounting, public finance, or corporate finance, prior to their appointment; or,
  - (3) successfully complete, within three months of appointment to the Board, a recognized training program that directly addresses the prudent process of administering and managing such trust funds, such as through the Chartered Institute of Management Accountants, the Asian Institute of Finance, or others.
- (d) Board terms will be staggered to ensure continuity of the Board of Trustees. Therefore, upon re-establishment of the Board of Trustees, two members shall be appointed to an initial two (2) year term, and three (3) members shall be appointed to a four (4) year term. All subsequent appointments shall be for a four (4) year term except as provided in paragraph (e).
- (e) In the event a Board member is terminated for cause, resigns, or is otherwise unable to complete the remainder of a four (4) year term appointment, a replacement will be promptly made, with the advice and consent of the Senate of the Olbiil Era Kelulau, to serve for the remainder of the four (4) year term. At all times, a full complement of the five (5) members of the Board of Trustees will be maintained. If the President fails to nominate a qualified individual to a vacant seat within fifteen (15) days of the seat being vacated or the Senate fails to confirm the President's appointment, then the remaining members of the Board shall appoint an interim member to serve until such time as a

permanent member is appointed by the President and confirmed by the Senate. In the event of a tie vote between the remaining Board members with regard to the appointment of an interim member, then the Minister of Finance shall temporarily break his ex officio role on the Board to cast the tie breaking vote.

(f) The Board shall provide recommendations for action to the President of the Republic, with respect to investment of the funds in the 211(f) Trust Fund. To discharge these duties, the Board may employ financial consultants as needed. A formal investment policy statement shall be adopted by the Board in which the specific qualifications for all service providers will be stated.

(g) The Minister of Finance, and the Chairmen of the Committee on Ways and Means in the Senate and the House of Delegates, shall serve as ex-officio members of the Board. The ex-officio members may attend any meetings or hearings of the Board. No action or recommendation of the Board will require the approval of the ex-officio members, except that the Minister of Finance may break his ex officio role to cast the tie breaking vote, if necessary, to appoint an interim member to the Board in accordance with subsection (e).

**Source**

RPPL 2-22 § 5(1), 5(3), and 5(4), modified. Repealed by RPPL 7-29 § 5(a). Reinstated by RPPL 9-20 § 2, modified.

**Notes**

Toribiong v. Whipps, 2016 Palau 4 ¶ 2.

**§ 408. Trust Fund Administration.**

(a) The Compact of Free Association Board of Trustees shall be responsible for the administration of the Trust Fund created by section 211(f) of the Compact of Free Association. Prior to taking any action with regard to the Trust Fund, the Board shall provide fifteen (15) days of written notice to the President of the Republic with respect to any changes related to the prudent investment of the funds in the Trust Fund. Such written notice shall include a detailed description of the changes proposed, which may include changes to matters such as investment policy statement change, selection and replacement of investment service providers including custodians, investment consultants, investment managers, and other investment related matters.

(b) To ensure the timely and prudent management of the Trust Fund, the President shall have fifteen (15) days in which to respond in writing to the written notice provided by the Board pursuant to subsection (a) and either concur with the recommendations of the

Board, or to provide cause to not adopt any particular recommended change proposed in the written notice submitted by the Board of Trustees. If the President provides written cause to not adopt a particular proposed action by the Board, then the Board shall not implement the proposed action. If no such written communication from the President is received by the Board of Trustees within the fifteen (15) day period, then the Board of Trustees may proceed with implementation of its proposed action.

(c) It is hereby authorized that all funds received by the Republic of Palau pursuant to sections 211(b), 211(c), 211(d), 211(e), 211(f), 212(b), 213, 215, and 221(b) of the January 10, 1986 Compact of Free Association, and any additional funds received pursuant to any subsequent extension of, or amendment to the Compact of Free Association, may be commingled into the 211(f) Trust Fund for investment purposes; however, those funds and the income derived there-from shall remain segregated for appropriation and accounting purposes. No funds shall be withdrawn from the 211(f) Trust Fund, any investment account containing funds received pursuant to any Compact section, or any investment account containing funds from the General Fund Reserve, except through the constitutional appropriation process.

(d) No later than the fifteenth day after the end of each fiscal quarter, the Compact of Free Association Board of Trustees shall submit to the President of the Republic of Palau, and to the Olbiil Era Kelulau a written summary report of the current value of all invested compact funds that includes any contributions or withdrawals that occurred, excluding investment related fees.

(e) The Board of Trustees is empowered to enter into any and all agreements needed pertaining to the investment management of the compact funds, including the hiring and firing of service providers such as custodians, investment consultants, investment managers, and others. The Board of Trustees shall adopt an investment policy to set procedures for the management of the compact funds and to properly designate persons authorized to transact business on behalf of the Board.

(f) Of the funds received by the Republic under Compact section 211(b), twenty-five percent (25%) shall be devoted to the energy needs of those parts of Palau not served by the central power-generating facility in Aimeliik.

(g) The sum of sixty-six million dollars (\$66,000,000) is hereby authorized to be appropriated for the purposes set forth in Compact section 211(f). The amount authorized to be appropriated shall, upon receipt from the United States Government, be invested in a Trust Fund under the terms and conditions of the Compact, including that distributions

(withdrawals) of Trust Fund interest or principal shall not begin earlier than the fifth anniversary after the effective date of the Compact; distributions (withdrawals) of principal and interest from the Trust Fund may only be done upon subsequent authorization and appropriation by law. The Trust Fund Management shall be under the Compact of Free Association Board of Trustees.

(h) All funds derived from the Compact Section 213 Investment Account Pursuant to the Fiscal Year 2007 Supplemental Budget Authorization and Appropriation Act shall be reimbursed in the future so that the purpose of the Compact 213 Investment Account funds shall be maintained.

#### Source

Subsection (a) added by RPPL 2-22 §§ 5(5) & 7. Subsection (b) added by RPPL 2-22 § 6. RPPL 4-26 § 40 amended subsection (b) with identical language. Amended by RPPL 4-32 §§ 36, 48, 50 & 52. Subsection (d) added by the last sentence of RPPL 4-40 § 36(c). Subsection (h) added by RPPL 4-40 § 36(b). Subsection (h) amended by RPPL 5-6 § 3(b). Subsection (h) was repealed by RPPL 5-15 § 22(a) and a new subsection (I) was added by § 22(b). Subsection (i)(2) was amended by RPPL 5-34 § 42. Subsection (b) was amended by RPPL 6-11 § 4. Amended in its entirety by RPPL 7-29 § 5(b). Amended in its entirety by RPPL 9-20 § 3, modified.

#### Notes

RPPL 2-22 § 6 was amended by RPPL 4-26 § 40. RPPL 4-26 was repealed in its entirety by RPPL 4-32 § 49. In Subsection (c), the bracketed “[on]” replaced RPPL 4-43 § 50 wording “. . . , the . . .” per Code Commission. In Subsection (f), “. . . with the provisions of 40 PNCA § 407 and § 408” reads “. . . with the provisions of RPPL No. 2-22” in the original statute, RPPL 4-32 § 36.

Toribiong v. Whipps, 2016 Palau 4 ¶ 2.  
ROP v. Sakuma, 10 ROP 221, 223 (Tr. Div. 2003).

### **§ 409. Procedures for withdrawal of invested public funds; amendment; repealer; liability for improper withdrawal; taxpayer standing and attorney fees.**

(a) No funds received from the United States of America pursuant to the Compact of Free Association, or monies earned therefrom (collectively “Compact Funds”), or any other funds held in the name of or on behalf of the Republic of Palau or monies earned therefrom, which are invested outside of the National Treasury may be transferred to the National Treasury without first doing the following:

(1) All requests for transfers of such funds shall be made in writing and shall be accompanied by the written certifications required, *infra*. Each request shall have a separate certification which shall be serialized. All such requests shall be a matter of public record and shall be available for inspection at the Bureau of National Treasury by any person during reasonable business hours regardless of



the purpose of the inquiry.

(2) Prior written certification shall be obtained from the Director of the Bureau of the National Treasury and the Director of the Program, Budget, and Management Office, signed under penalty of perjury, that they: have received the request for the transfer; have reviewed the relevant Unified National Budget law, any

amendments thereto, and any other applicable authorization and appropriations law; have knowledge of all previous transfers to the National Treasury made pursuant to such laws; and that the transfer is in accordance with law.

(3) Written notice of the proposed transfer shall be provided to the Presiding Officers of the Olbiil Era Kelulau, together with copies of the aforementioned written certifications from the Director of the Bureau of National Treasury and the Director of the Program, Budget, and Management Office, not less than two (2) business days before the written request for transfer.

(b) Any person who causes Compact Funds to be transferred in violation of this section shall be personally liable for the amount of said transfer.

(c) In addition to any other person or entity entitled to bring an action to enforce the provisions of this section, any person who pays taxes in the Republic of Palau may bring a civil suit in the Trial Division of the Supreme Court to enforce the provisions of this section. The court is authorized to make any order necessary to ensure prospective compliance with this section. The prevailing party in an action to enforce compliance with this section may be awarded reasonable attorneys' fees and costs actually incurred in the prosecution or defense of such an action, at the discretion of the court.

**Source**

RPPL 4-40 § 32(B), (C) and (D), modified. Previously enacted with similar language in RPPL 4-38 § 34(B), (C) and (D). Amended by RPPL 4-48 § 2(32).

**Notes**

RPPL 4-36 § 9 preceded RPPL 4-38 § 34(b) and RPPL 4-40 § 32(b) covering the same subject matter with different language. RPPL 4-36 § 9 was repealed by RPPL 4-38 § 34A. RPPL 4-40 § 32A also repealed § 9 of RPPL 4-36. RPPL 4-38 was repealed in its entirety by RPPL 4-40 § 46.

Toribiong v. Whipps, 2016 Palau 4 ¶ 2

**§ 410. Appropriations for the Legislature.**

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 designees.

**Source**

RPPL 4-36 § 2(5), modified. Amended by RPPL 5-15 § 24.

**Notes**

Toribiong v. Whipps, 2016 Palau 4 ¶ 2

**§ 411. Earmarking of funds.**

Of the funds generated by the concession fee of four percent (4%) of the gross receipts annually derived from the Virtual Pachinko Business or Internet Digits Lottery Game Business, established in accordance with 11 PNC § 1402(c), fifty percent (50%) shall be deposited in the general fund of the National Treasury for future appropriation, twenty five percent (25%) shall be earmarked and appropriated for school books, supplies and instructional equipment within the Ministry of Education, and twenty five percent (25%) shall be earmarked and appropriated to supplement the Hospital Trust Fund.

**Source**

RPPL 5-45 § 2. Amended by RPPL 6-26 § 15(f) and RPPL 6-35 § 2, modified. Amended in its entirety by RPPL 8-21 § 4, modified.

**Notes**

The first two sentences of RPPL 6-12 § 11 read: “Pursuant to RPPL No. 5-45, \$1,000,000 has been earmarked to the Civil Service Pension Plan. Of that sum, \$500,000 is allocated for the employer contribution of the Palau Community College (PCC) to the Civil Service Pension Plan; any portion of the \$500,000 not used toward PCC employees shall be used for the general contribution.”

Toribiong v. Whipps, 2016 Palau 4 ¶ 2

**§ 412. Water and wastewater charges.**

The Minister of Finance, in cooperation with the relevant Ministry, shall promulgate rules and regulations pursuant to the Administrative Procedures Act, 6 PNC Chapter 1, to establish fees and charges, with subsidy options for fixed and low income groups, that at minimum recover the actual costs of the provision of water and wastewater services. Such fees and charges, pursuant to rules and regulations, shall take effect not later than April 1, 2009.

**Source**  
RPPL 7-53 § 8.

**§ 413. Our Ocean Conference 2020 Fund.**

(a) There is hereby established a revolving fund within the National Treasury that shall be known as the “Our Ocean Conference 2020 Fund,” to be maintained by the Ministry of Finance, separate and apart from other funds of the National Treasury. Independent records and accounts shall be maintained in connection therewith.

(b) The Our Ocean Conference 2020 Fund shall be the primary account for all monies collected to fund the 2020 Our Ocean Conference, and the primary account from which 2020 Our Ocean Conference expenses shall be paid. All appropriations, funds, and revenues made or received for the purpose of funding the 2020 Our Ocean Conference shall be deposited into the Our Ocean Conference 2020 Fund.

(c) Except when specific requirements are imposed by law or by the grantor or donor, monies from the Fund shall be applied to the costs of hosting the 2020 Our Ocean Conference. Such costs may include, among others:

- (1) The cost of procuring, improving, or constructing conference space and related facilities;
- (2) The cost of security for the conference, and of any additional security required by high-profile conference attendees;
- (3) The cost of advertising and publicizing conference information;
- (4) The cost of developing conference materials;
- (5) The cost of catering, ground transportation, communication, or other services for conference attendees; and
- (6) The rental or purchase of required equipment.

(d) Surplus funds remaining in the 2020 Our Ocean Conference Fund, upon the completion of the Our Ocean Conference and payment of all related expenses, absent requirements imposed by law or by the grantor or donor, may be rolled into the trust account for the Palau National Marine Sanctuary, and the 2020 Our Ocean Conference

Fund shall cease to exist. A final, comprehensive report of all account activity shall be generated and made available within six (6) months of the conclusion of the 2020 Our Ocean Conference for any interested Fund contributor.

**Source**  
RPPL 10-18 § 2, modified.

**§ 414. Southwest Island field trips/Sonsorol & Hatohobei.**

The Ministry of State shall allocate any and all funds authorized and appropriated for the purpose of Southwest Island field trips to Sonsorol state and Hatohobei state on a “pro rata” basis to cover the costs of at least four (4) joint field trips to Sonsorol and Hatohobei states at a rate of one (1) field trip per quarter. The Ministry of State shall coordinate between all national departments and agencies and the Sonsorol and Hatohobei State Governments to equitably share costs in a fair manner so that both Sonsorol state and Hatohobei state receive four (4) joint trips.

**Source**  
RPPL 10-34 § 28.

# NATIONAL GOVERNMENT DEBT MANAGEMENT 40 PNCA § 502

## Chapter 5 National Government Debt Management

- § 501. Short title.
- § 502. Legislative findings.
- § 503. Definitions.
- § 504. Borrowing Purposes and Principles.
- § 505. Authority over sovereign debt; conditions, procedures and guidelines.
- § 506. Responsibilities of the Minister of Finance.
- § 507. Reporting.
- § 508. Audits.
- § 509. Interest and terms of borrowing permissible.
- § 510. Conflict of laws.

### § 501. Short title.

This chapter shall be known as and may be cited as the “National Government Debt Management Act”.

#### Source

RPPL 1-20 § 1(a), modified. Amended in its entirety by RPPL 11-13 § 5.

### § 502. Legislative findings.

The Olbiil Era Kelulau hereby finds and declares the public policy of the nation to be as follows:

- (a) The national government is constitutionally responsible for taking positive action to promote the national economy and the health, safety, welfare and prosperity of the citizens of the Republic.
- (b) The national economy and the health, safety, welfare and prosperity of the citizens of the Republic will be greatly enhanced by the expeditious and reasonable development of national programs, public projects, governmental services, and capital improvements within Palau.
- (c) The need to develop necessary national programs, public projects, governmental services, and capital improvements requires immediate outlays of funds beyond the level currently available to the national government.

(d) Public debt financing, properly controlled and regulated, is a useful and efficient tool for the development of needed national programs, public projects, governmental services, and capital improvements, and is a necessary and proper exercise of governmental powers.

(e) The current international political status of the Republic requires that the broadest possible access to borrowing from any and all sources, including other sovereign nations, multilateral lending institutions and private financial institutions and persons, is encouraged and sufficient legislation is enacted to enable the Republic to meet international lending conditions and standards.

(f) The Government shall pursue its lending objectives in accordance with the principles of responsible fiscal management set forth in section 105 of Title 40 and as further set forth in this chapter.

(g) The Olbiil Era Kelulau may properly delegate to the President a portion of its powers and duties with regard to borrowing funds, and the Olbiil Era Kelulau may set the guidelines for borrowing if such delegation of power is executed.

**Source**

RPPL 1-20 § 1(b), modified. Amended in its entirety by RPPL 11-13 § 5.

**Cross-reference**

ROP Const., Art. IX, § 5(2).

**§ 503. Definitions.**

In this chapter:

(a) “Bond” means a fixed income instrument that represents a loan made by an investor to a borrower.

(b) “Borrow” means to solicit and receive from another any article or property or thing of value with the intention and promise to repay or return it or its equivalent. Money may be borrowed on any agreement to pay interest for its use.

(c) “government” means the Government of the Republic of the Palau.

(d) “Government guarantee” or “Sovereign guarantee” means a commitment by the

## NATIONAL GOVERNMENT DEBT MANAGEMENT 40 PNCA § 503

Government to repay the financial liabilities of another entity should that entity default in whole or in part.

(e) “Government on-lending” means a loan issued by or on behalf of the Government to an entity in the private or public sector, using public money or funded by Government borrowing.

(f) “Government securities” means, where applicable, treasury bills, treasury bonds, bearer bonds, registered stocks, government promissory notes and such other securities as may be prescribed.

(g) “Interest” means the amount of money paid for the use of the principal or sum loaned at a certain rate or allowance.

(h) “Lender” means the person from whom a thing or money is borrowed.

(i) “Line of Credit” means a loan arrangement between a financial institution, usually a bank, and a client that establishes the maximum loan amount the customer can borrow. The borrower can access funds from the Line of Credit at any time as long as they do not exceed the maximum amount set in the agreement and if they meet any other requirements of the arrangement.

(j) “Loan” means a type of credit vehicle in which a sum of money is lent to the Government, State Governments, State Owned Enterprises, or Public Financial Institutions in exchange for future repayment of the loan value or principal amount plus any agreed upon interest and finance charges.

(k) “Loan Reserve Account” means a reserve account used to accrue funds for the purpose of paying interest and principal amounts of a loan.

(l) “Minister” means the Minister of Finance or such person acting as designee of the Minister of Finance.

(m) “Ministry” means the Ministry of Finance.

(n) “Person” means any natural individual, partnership, association, clan, corporation, institution, business and all entities cognizable as legal personalities.

(o) “Public debt” means that which is due or owing by the Republic, State Governments,

State Owned Enterprises, or Public Financial Institutions and is backed by the full faith and credit of the nation.

(p) “Public Financial Institutions” means a broad range of public business operations within the financial services sector, which in Palau include, but are not limited to the Social Security Administration, the Civil Service Pension Plan, the National Development Bank of Palau and the Palau Housing Authority.

(q) “Public purpose” means a classification of objects which, according to settled usage, the national government is to provide, as opposed to those objects which by the like usage, are left to private interests. A public purpose has for its objective the promotion of the public health, safety, morals, welfare, security or prosperity of the citizens of the Republic. It includes, but need not be limited to, national programs, public projects, governmental services, and capital improvements such as roads, power development, transportation modes, housing, health services and the like.

(r) “Security” means a fungible, negotiable financial instrument that holds some type of monetary value. It is used to raise capital in public and private markets and represents an ownership position in a publicly-traded corporation via stock; a creditor relationship with a governmental body or a corporation represented by owning that entity's bond; or rights to ownership as represented by an option.

(s) “State government” means any of the sixteen (16) State Governments of the Republic of Palau.

(t) “State Owned Enterprise” means a legal entity that is created by a government in order to partake in commercial activities on the government's behalf. The enterprise can be either wholly or partially owned by a government and is typically earmarked to participate in specific commercial activities. State owned enterprises in Palau currently include, but are not limited to, the Palau Public Utilities Corporation, the Palau National Communications Corporation and the Belau Submarine Cable Corporation.

**Source**

RPPL 1-20 § 2. Subsections (2), (8), and (12) omitted as unnecessary and section modified. Amended in its entirety by RPPL 11-13 § 5.



## NATIONAL GOVERNMENT DEBT MANAGEMENT 40 PNCA § 504

### § 504. Borrowing purposes and principles.

(a) Purpose. The purpose of this chapter is to promote sound debt management to ensure that the Government's financing needs and its payment obligations are met at the lowest possible cost with the lowest possible risk over the short, medium, and long term in accordance with transparent debt management best practices.

(b) Principles. In achieving the purpose stated in this section, the Government shall adhere to the following principles, except as otherwise provided in subsection (c) below:

- (1) all programs, projects or capital improvements funded through a loan or sovereign guarantee by the Republic shall be for public purposes only;
- (2) projects and activities financed by loans or sovereign guarantees are able to demonstrate quantifiable positive returns and shall not be for the purposes of supplementing recurrent budget expenditures;
- (3) loans or sovereign guarantees shall only be considered once all other practical avenues of financing have been considered;
- (4) total debt shall be maintained at prudent levels so as to provide a buffer against factors that may adversely impact the Republic's total net worth in the future; and
- (5) loans shall, where possible, be denominated in United States Dollars (USD).

(c) The government may depart from these stated principles if:

- (1) the departure from the principles is temporary; and
- (2) the need for borrowing due to exceptional circumstances is approved by joint resolution of the Olbiil Era Kelulau by way of the authorization of a new borrowing, acknowledging the temporary departure from the principles stated in subsection (b).

#### Source

RPPL 1-20 § 3, as amended by RPPL 2-21 § 3, modified. Subsection (s) added by RPPL 7-53 § 6, modified. Subsection (s) is amended by RPPL 8-9 § 5(C). Subsection (s) is further amended by RPPL 8-24 § 1, modified. Amended in its entirety by RPPL 11-13 § 5.

**§ 505. Authority over sovereign debt; conditions, procedures and guidelines.**

(a) Delegation of Constitutional authority. In accordance with Article IX, Section 5(2) of the Constitution of the Republic of Palau, the Olbiil Era Kelulau has the authority to borrow money on the public credit. By express delegation, the President is delegated the authority to execute debt instruments on behalf of the Republic of Palau subject to the parameters set forth herein and subject to the approval of the Olbiil Era Kelulau as expressed through joint resolution. The debt instruments contemplated in this section include: direct loans, sovereign guarantees, or other forms of transactions that legally constitute a financial obligation on the part of the National Government, either direct or indirect, primary or secondary, absolute or contingent.

(b) Contracts to borrow, issue bonds or securities. The Republic may enter contracts to borrow, issue bonds or securities, or make any legal agreement to borrow consistent with this chapter; provided that if securities and bonds are issued as collateral or notice of debt, interest paid on such securities and bonds are free from the gross revenue tax of the Republic and no state or municipality may tax such interest. The President may promulgate any rules or regulations necessary to carry out the provisions of this subsection including, but not limited to, the issuing of such securities and bonds, the style and design thereof, denomination, term, interest rate of each, and provisions for loss or destruction of the same, and determination of United States tax status of such securities and bonds.

(c) On-lending of Funds.

(1) upon request by State Governments, State Owned Enterprises, or Public Financial Institutions, the President, in consultation with the Minister, may approve any Government on-lending and issuance of a sovereign guarantee that meets the prescribed terms and conditions approved by the President and ratified by joint resolution of the Olbiil Era Kelulau. The President shall prescribe the rules and regulations for on-lending and issuing sovereign guarantees, including but not limited to, eligible purposes, required collateral, and required risk assessment.

(2) the terms and conditions for on-lending shall be specified in the on-lending agreement to be signed by the parties, including any additional fees or charges that may be imposed as part of the cost and risk of administering and processing the on-lending and issuance of a sovereign guarantee.

## NATIONAL GOVERNMENT DEBT MANAGEMENT 40 PNCA § 505

(d) Sovereign guarantee. The national government may issue a sovereign guarantee to secure borrowing by State Governments, State Owned Enterprises, and Public Financial Institutions. The following rules apply to a sovereign guarantee:

(1) the President may issue a sovereign guarantee only if the Olbiil Era Kelulau approves the guarantee by joint resolution and provision has been made for the following:

(A) for a loan reserve account to secure the loan repayment that is under the control of or is made visible to the National Government;

(B) to assess, monitor, and report at least annually on the risks involved;

(C) to ensure that any part of the loan which cannot be applied for such purpose shall either not be drawn or shall be applied to such other purposes as the Minister approves and is within the provisions of the loan agreement;

(D) for charging on the income, revenue, and/or assets of the borrower, or any other income which may be made available for the purpose of loan repayment; and

(E) for the raising or securing the raising of sufficient money to meet all the charges referred to in this subsection.

(2) the Minister may impose such fees and cover the cost and risks of administering it.

(3) any sum required for fulfilling a sovereign guarantee under this section shall be charged to the borrower.

(e) Private Public Partnerships. Loans obtained by the government as a matching share for a government and private sector partnership or joint venture, as well as any agreements for concessionary rights to operate Republic assets in connection with such partnership or joint venture, shall be approved by a joint resolution of the Olbiil Era Kelulau. Furthermore, any loans obtained by the government or concession rights granted in connection with such partnerships or joint ventures shall include a plan to establish a reserve fund for the repayment of the loan or the return of the concession rights.

(f) Restrictions and conditions of borrowing. The President shall not borrow money except in accordance with the provisions of this Title.

(1) a cap on total public debt shall be determined to be related to i) the debt to Gross Domestic Product ratio and ii) the debt service to unrestricted local revenues ratio as set forth in the Debt Management Policy of the Government as specified by regulations. Borrowing may not exceed this cap except for the exceptional circumstances provisions in subsection (2).

(2) subsection (1) does not apply where short-term borrowing is necessary to deal with exceptional circumstances, as determined by the President and authorized by the Olbiil Era Kelulau.

(3) this subsection shall be governed by the following principles:

(A) the President shall exhaust all efforts to remedy the financial situation using the available domestic financial resources, including the use of reprogramming authority, where applicable.

(B) the President may also identify and make use of all available resources including bilateral and multilateral assistance made available pursuant to treaties with other nations or agreements with other institutions.

(4) if short-term borrowing due to exceptional circumstances is required, the President shall present to the Olbiil Era Kelulau:

(A) the level of borrowing required;

(B) the approach the Government will take to return to the principles outlined in this Title; and

(C) the period of time the Government expects to take to return to said principles.

(g) Issuance of securities or bonds. Any issuance of securities or bonds by the Republic must be authorized and approved by joint resolution of the Olbiil Era Kelulau.

(h) At all times in the negotiation for any borrowing by the Republic, the President shall

## NATIONAL GOVERNMENT DEBT MANAGEMENT 40 PNCA § 505

keep the Olbiil Era Kelulau informed of the terms, amount, interest rates, related agreements and conditions being considered for such agreement.

(i) The annual national budget shall reflect all borrowings, repayment obligations, and issuances of securities and bonds of the Republic in detail, for every year such borrowing is in effect.

(j) Any contract to borrow must include the acceptance by all parties of the provisions of this chapter.

(k) Jurisdiction. If not otherwise specified and approved in the loan document, the courts of the Republic shall, wherever practicable, have exclusive jurisdiction over any agreement, contract or action by the Republic.

(l) Appropriation of funds. The Olbiil Era Kelulau shall authorize and appropriate such sums as may be necessary to meet the legal obligations incurred by the Republic under this chapter.

(m) Line of Credit. In addition to the authority granted above, and not in lieu thereof, the President is hereby authorized to negotiate for, execute all documents relating to, and obtain a revolving Line of Credit for no more than three (3) years with a Lender or Lenders in the maximum total amount of three million dollars (\$3,000,000), at a reasonable interest rate, on reasonable terms and only as set forth in the following situations:

(1) at or near the beginning of any fiscal year in which the allowance for the needs of normal cash flow management is less than the level specified by regulation pursuant to section 330 (a)(2); noting that the extent of such line of credit shall be limited to the amount needed to bring the funds for cash flow management up to the level specified by regulation, provided that a cash flow analysis is established substantiating the shortfall; and

(2) during any fiscal year in which at any time after the end of the second quarter of that fiscal year, the collected local revenue is at least five (5%) percent less than the originally projected local revenue, and the Cyclical Reserve Fund balance is below its target value of three (3) months of general fund local revenues averaged over the previous three (3) fiscal years as set forth in section 330 (a) (5). Draws upon any line of credit shall be for the sole purpose of securing cash to support the National Government's cash flow needs, shall be repaid timely to minimize

borrowing costs, and shall be considered public debt.

**Source**

RPPL 1-20 § 4, modified. Amended in its entirety by RPPL 11-13 § 5.

**§ 506. Responsibilities of the Minister of Finance.**

The Minister of Finance shall:

- (a) Establish a Debt Management Unit within the Ministry of Finance to assist the Minister in the overall debt management of the Republic, to include the following:
  - (1) provide technical discussion on every proposed borrowing and proposed issuance of a sovereign guarantee, in particular, assessment of the various risks involved, terms and conditions of borrowing, and debt-servicing strategy;
  - (2) assist the Minister to develop and maintain a debt management policy for consideration by the President;
  - (3) develop and utilize a project appraisal and approval framework for the assessment of loan financed project and activity proposals and to provide subsequent advice to the Minister;
  - (4) undertake a periodic Debt Sustainability Analysis to support the debt management component of the annual economic and fiscal update as set forth in section 108 of chapter 1 and render its opinion or advice thereon to the Minister;
  - (5) undertake an annual risk assessment on the loan portfolio in its entirety and render its opinion or advice thereon to the Minister;
  - (6) assist the Minister in all high level Ministerial activities mandated in subsections (b) through (g); and
  - (7) develop a prospectus for each loan proposal outlining the loan's amount, risk assessment, repayment schedule, reserve fund, and terms and conditions.
- (b) Supervise and monitor Government finances and coordinate inter-governmental financial and fiscal resources through the combined application of this chapter and chapter 1 of Title 40;

## NATIONAL GOVERNMENT DEBT MANAGEMENT 40 PNCA § 507

- (c) Develop, implement, and provide to the President and the Olbiil Era Kelulau a debt management policy that implements the principles established in subsection (b) of section 504;
- (d) Establish standards of good governance on public debt management;
- (e) Ensure appropriate financial management review of every borrowing proposal and determine the fiscal and economic implications prior to its transmittal to the Olbiil Era Kelulau for approval;
- (f) Initiate or review borrowing proposals as directed by the President;
- (g) Recommend to the President suitable terms and conditions of borrowing, taking into consideration the relevant financial and operational risks involved; and
- (h) Provide an annual report on the status of the Republic's loan portfolio by conducting an assessment of each loan as to the loan's amount, payments, balance, risk factors, reserve fund status, maturity date, and other pertinent information.

### Source

Amended in its entirety by RPPL 11-13 § 5, modified.

### § 507. Reporting.

The following constitutes the reporting requirements:

- (a) Borrowers will provide the Minister with progress reports on loan funded activities within thirty (30) days of the completion of each fiscal year unless required more frequently by the Minister;
- (b) Borrowers will submit a completion report, which shall include a report on outcome effectiveness, to the Minister at either the completion of the loan funded activity or at the completion of the loan repayment, whichever is first;
- (c) The Minister shall include a debt summary in the unaudited financial statement of the National Government that is provided to the President and the Olbiil Era Kelulau no later than January 31 of each year.

- (d) The Minister shall report to the President annually as to the balance and sufficiency of reserve accounts linked to loans and guarantees;
- (e) The Minister shall include a statement as to the sufficiency of reserve accounts linked to loans as a part of the annual audited financial statement; and
- (f) Each recipient of a loan guarantee issued by the national government shall annually report to the Minister of Finance on the status of the loan with respect to the loan's outstanding balance, all payments made on the loan, the status of the loan's reserve fund, any events that pose a risk to timely repayment of the loan, and any other pertinent matters.

**Source**  
RPPL 11-13 § 5.

**§ 508. Audits.**

The Public Auditor shall have authority to audit any borrowing or sovereign guarantee under this chapter and to determine such borrowing's or sovereign guarantee's compliance with the provisions of this Title.

**Source**  
RPPL 11-13 § 5.

**§ 509. Interest and terms of borrowing permissible.**

- (a) The Republic may pay such rate of interest as it feels is reasonable to accomplish the public purposes for which any borrowing is made.
- (b) The Republic may agree to such terms and conditions as it may feel are reasonable to accomplish the public purpose for which any borrowing is made provided that such terms and conditions are consistent with the provisions of this chapter.

**Source**  
RPPL 11-13 § 5.



**NATIONAL GOVERNMENT DEBT MANAGEMENT 40 PNCA § 510**

**§ 510. Conflict of laws.**

Any provision of law or regulation promulgated thereunder which is in conflict with this chapter is deemed superseded and void to the extent of the conflict.

**Source**  
RPPL 11-13 § 5.

**Chapter 6  
Statutory Framework for National Government Procurement**

**Subchapter I  
Procedures for Government Procurement**

- § 601. Purpose; interpretations.
- § 602. Requirement of good faith.
- § 603. Application.
- § 604. Severability.
- § 605. Retention of written determinations.
- § 606. Definitions.
- § 607. Procurement authority.
- § 608. Procurement Officer.
- § 609. Delegation.
- § 610. Procurement regulation.
- § 611. Collection of data.
- § 612. Duties of Attorney General.
- § 613. Methods of source selection.
- § 614. Competitive sealed bidding.
- § 615. Invitation for bids.
- § 616. Public notice.
- § 617. Bidding time.
- § 618. Bidder's mailing list.
- § 619. Bid receipt.
- § 620. Bid opening and recording.
- § 621. Bid acceptance and evaluation.
- § 622. Bid rejection.
- § 623. Correction or withdrawal of bids; cancellation of awards.
- § 624. Awards.
- § 625. Small purchases.
- § 626. Competitive negotiated contracts.
- § 627. Sole source procurement.
- § 628. Emergency procurement.
- § 629. Professional services.
- § 630. Cancellation of invitation for bids or request for proposals.
- § 631. Responsibility of bidders and offerors.
- § 632. Prequalifications of offerors and bidders.
- § 633. Right to inspect place of business.

- § 634. Reports of anti-competitive practices
- § 635. Retention of procurement record.
- § 636. Contract file documentation.
- § 637. Required contract clauses.
- § 638. Duties of the Procurement Officers.
- § 639. Relationship with using agencies.
- § 640. Maximum practicable competition.
- § 641. Content of specifications.
- § 642. Application.
- § 643. Invitation for bids.
- § 644. Bid security.
- § 645. Contract performance and payment bonds.
- § 646. Suits on payment bonds.
- § 647. Fiscal responsibility.
- § 648. Architect-engineer and land surveying services.
- § 649. Authority to resolve protested solicitations and awards.
- § 650. Remedies.
- § 651. Authority to resolve contract dispute.
- § 652. Definition of terms.
- § 653. General standards.
- § 654. Employee conflict of interest.
- § 655. Employee disclosure requirements.
- § 656. Kickbacks and gratuities.
- § 657. Contract clauses.
- § 658. Restrictions on employment of present and former employees.
- § 659. Use of confidential information.
- § 660. Collusion by bidders.
- § 661. Penalties.
- § 662. Recovery of value transferred or received in breach of ethical standards.
- § 663. Authority to debar or suspend.
- § 664. Regulations

**§ 601. Purpose; interpretations.**

(a) This chapter shall be construed and applied to promote its underlying purposes and policies.

(b) The purposes and policies of this chapter are as follows:

- (1) to ensure the fair and equitable treatment of all persons who deal with the procurement system of the Republic or any state government.
- (2) to provide for increased economy in all procurements and to maximize purchasing value of public funds;
- (3) to encourage competition;
- (4) to provide for public confidence in the procurement procedures; and
- (5) to allow for the continued development of procurement policies and practices;
- (6) to provide safeguards for the maintenance of a procurement system of quality and integrity; and
- (7) to ensure that all costs related to the procurement system are necessary and cost effective.

**Source**

RPPL 3-54 § 1, modified. Subsections (a) and (b) amended by RPPL 10-26 § 4.

**Notes**

Pettit v. ROP, 2016 Palau 6 ¶ 12 n.2  
Toribiong v. Whipps, 2016 Palau 4 ¶¶ 2, 7 (§§ 601-681).  
ROP v. Sakuma, 10 ROP 221 (Tr. Div. 2003).  
In re Rechucher, 7 ROP Intrm. 28, 29 (1998).

**§ 602. Requirement of good faith.**

All parties, including government employees, contractors, offerors and bidders, involved in the negotiation, bidding, offering, performance and administration of government contracts shall act in good faith.

**Source**

RPPL 3-54 § 2.

**§ 603. Application.**

- (a) This chapter applies only to procurement actions taken or contracts entered into after the effective date hereof.

(b) Except as otherwise specified by law, this chapter applies to every expenditure of public funds by the national government or any government agency, except [P.P.U.C.] and P.N.C.C., that receives national government funding or state governments, irrespective of source, including United States Federal assistance monies. This chapter shall also apply to contracts between the national and state governments or other governments, except, however, in cases in which the Procurement Officer concerned makes a written and substantiated determination that the contract involved is of such a nature that only governments may perform it.

**Source**

RPPL 3-54 § 3, modified. Subsection (b) amended by RPPL 5-7 § 64. The bracketed [P.P.U.C.] in subsection (b) read “P.U.C.” in the original legislation and was amended by RPPL 10-26 § 5 to add a letter “P”.

**Notes**

RPPL 5-7 § 65 required two public corporations (P.U.C. and P.N.C.C.) to adopt regulations substantially similar to 40 PNCA Chapter 6.

Shell Co. v. Palau Pub. Utils. Corp., 15 ROP 158, 161 (Tr. Div. 2008).

**§ 604. Severability.**

If any provision of this chapter or any application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are declared to be severable.

**Source**

RPPL 3-54 § 4, modified.

**§ 605. Retention of written determinations.**

Written determinations required by this chapter shall be retained in the appropriate official contract file of the Procurement Officer.

**Source**

RPPL 3-54 § 5, modified.

**§ 606. Definitions.**

The terms used in this chapter shall have the following meanings unless the context otherwise requires:

- (a) “Attorney General” means the Attorney General of the Republic of Palau.
- (b) “Bidding time” means the time between the issuance of a solicitation and the opening of bids or the due date for proposals.
- (c) “Business” means any corporation, partnership, sole proprietorship, individual, joint venture, or any other private legal entity.
- (d) “Change order” means a written order signed by the Procurement Officer, directing the contractor to make changes which the changes clause of the contract authorizes the Procurement Officer to order without the consent of the contractor.
- (e) “Construction” means the process of building, altering, repairing, improving or demolishing of a public structure, or building or other public improvements of any kind to any real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.
- (f) “Contract” means all types of national or state government agreements, regardless of what these may be called, for the procurement of supplies, services, or construction, or for the disposal of government property.
- (g) “Contract modification” means any written alteration in specifications, delivery point, time, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.
- (h) “Contractor” means any person having a contract with the Republic or any state government.
- (i) “Cost-reimbursement contract” means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and a fee, if any.
- (j) “Dispute” means a disagreement concerning the terms of the contract and the legal rights and obligations of the contracting parties.
- (k) “Employee” means an individual receiving a salary from any government of the Republic, including elected and appointed officials.
- (l) “Firm-fixed price contract” means a contract under which a contractor agrees to

perform the work required for a price which is not subject to any adjustment.

(m) “Goods” means all properties including but not limited to equipment, materials, supplies, and other tangible personal property of any kind or nature, leases of real and personal property, and sale or disposal of real or personal property of any kind.

(n) “Grant” means the furnishing by the government of assistance, whether financial or otherwise, to any person to support a program authorized by law.

(o) “Invitation for bids” means all documents and announcements, whether attached or incorporated by reference, utilized for soliciting bids.

(p) “Offeror” means a person who has submitted a proposal in response to a request for proposals.

(q) “Person” means an individual, sole proprietorship, partnership, joint venture, corporation, other unincorporated association or private legal entity.

(r) “Procurement” means the acquisition by any means, including purchase, lease or rental, of any goods or services. It also includes all functions that pertain to the obtaining of construction, goods or services, including description of requirements, selection and solicitation of sources, preparation and award of contracts and all phases of contract administration. It does not include personal service contracts with individuals who will be employed by Republic officials.

(s) “Procurement Officer” means any person authorized by the Republic or by a state governor as the official responsible for procurement activities including entering into and administering contracts.

(t) “Purchase description” means the words used in a solicitation to describe the construction materials, goods, or services to be procured.

(u) “Request for proposals” means all documents utilized for soliciting proposals under the negotiation method of procurement.

(v) “Services” means the provision to the Republic of time, labor, or effort by a contractor of any government of the Republic which does not involve the production or delivery of a specific end product other than reports, plans, and incidental documents.

(w) “Specification” means any description of the physical or functional characteristics, or the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply service, or construction item for delivery.

(x) “Using agency” means any government organization which utilizes any supplies, services, or construction procured under these regulations.

**Source**

RPPL 3-54 § 6, terms put into alphabetical order and section modified.

**Notes**

ROP v. Sakuma, 10 ROP 221, 222 (Tr. Div. 2003).

Renguul v. ASPLA, 8 ROP Intrm. 282, 283 (2001).

**§ 607. Procurement authority.**

Except as otherwise provided by law, all rights, powers, duties and authority relating to the procurement of construction materials, goods, and services, and the management, control, warehousing, sale, and disposal of construction materials, goods, and services are hereby vested in the duly authorized Procurement Officer, except with regards to disposal of national government property which shall be done pursuant to Executive Order No. 100.

**Source**

RPPL 3-54 § 7, modified.

**§ 608. Procurement Officer.**

The Procurement Officer for the purchase of goods shall be the Chief of Property and Supply who will report to the Minister of Finance. The Procurement Officer for construction and architectural and engineering contracts shall be the Director of the Bureau of Public Works. The Procurement Officer for the purchase of contractual services shall be the Director of the Bureau of Public Service System. The Procurement Officer for each state government shall be that person designated by each state governor. The Procurement Officers for professional services, purchase of goods, and contractual services for the House of Delegates shall be the Speaker and for the Senate shall be the Senate President.

**Source**

RPPL 3-54 § 8, modified. Amended by RPPL 5-7 § 64. Amended by RPPL 5-34 § 12, modified. Amended by RPPL 10-26 § 6.



**§ 609. Delegation.**

A Procurement Officer may delegate his authority with the prior written approval of the Minister of Finance or, with regards to state governments, with the prior written approval of the Governor, or with regards to the Olbiil Era Kelulau, with prior written approval from the Speaker for the House of Delegates or the Senate President for the Senate. A Procurement Officer may suspend, limit or revoke any delegation of authority made under the provision of this section. Delegations must be in writing from the Procurement Officer involved and include the name and title of the individual being delegated the authority.

**Source**

RPPL 3-54 § 9, modified. Amended by RPPL 10-26 § 6.

**§ 610. Procurement regulation.**

This chapter shall not change existing contract rights. Neither this chapter nor any regulations promulgated hereunder shall change any existing contractual commitment, right, or obligation of the national government or of a contractor under a contract in existence on the effective date of such chapter or regulations.

**Source**

RPPL 3-54 § 10, modified.

**§ 611. Collection of data.**

The Procurement Officer shall cooperate with the Chief of Finance, Budget Officer, Public Auditor and National Planner in preparation of statistical data relating to procurement, usage, and disposition of all goods, services, and construction. The using government agencies shall furnish such reports as the Procurement Officer may require concerning usage, needs, and stocks on hand. The Procurement Officer shall have the authority to prescribe forms for requisition, ordering and reporting of supplies, services and construction.

**Source**

RPPL 3-54 § 11, modified.

**§ 612. Duties of Attorney General.**

The Attorney General or his designee shall serve as legal counsel and provide necessary legal services to the Procurement Officers. The Attorney General or in the case of state government

contracts, the State Attorney, if any, shall certify the form and legality of every government contract and change order.

**Source**  
RPPL 3-54 § 12, modified.

**§ 613. Methods of source selection.**

It is the policy of the Republic that all purchases and procurement actions be executed in a manner that provides open and free competition and avoids purchasing unnecessary or duplicative items. When appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical practical procurement.

**Source**  
RPPL 3-54 § 13.

**§ 614. Competitive sealed bidding.**

Contracts shall be awarded by competitive sealed bids except as otherwise provided by law. In using this method of procurement the following condition shall be met. Invitations for bids shall contain a clear, complete and accurate description of the goods or services to be procured. This description shall not contain unnecessarily restrictive requirements which may unduly limit the number of bidders.

**Source**  
RPPL 3-54 § 14.

**§ 615. Invitation for bids.**

An invitation for bids shall be issued and shall include at a minimum:

- (a) notice that bids are being accepted;
- (b) an invitation for bids number;
- (c) date of issuance;
- (d) name, address, and location of issuing office and location where copies of the invitation for bids and plans may be obtained;

- (e) specific address/location where bids must be submitted;
- (f) date, hour, and place of bid opening;
- (g) a purchase description in adequate detail to permit full and open competition and allow bidders to properly respond;
- (h) quantity of goods or services to be furnished;
- (i) time, place, and method of delivery or performance requirements;
- (j) essential contractual terms and conditions;
- (k) any bonding requirements;
- (l) any local preference evaluation factors; and
- (m) closing date of bids.

**Source**

RPPL 3-54 § 15, modified.

**§ 616. Public notice.**

Public notice of the invitation for bids shall be made a reasonable time at least fifteen (15) days before the date of the initial day of the bidding time. The notice shall be furnished to all persons and state governments who have requested to be included in bidders mailing lists within the previous twelve (12) months; be published in a newspaper of general circulation in the Republic or in a foreign newspaper if the Procurement Officer determines that publication would benefit the government; and shall be publicly posted for at least fifteen (15) days at the Ministry of Finance's centralized bid website, at least two (2) other Palau governmental or agency websites including the procuring agency's website, and announced on two (2) radio and one (1) of the television stations within the Republic.

**Source**

RPPL 3-54 § 16, modified. Amended by RPPL 10-26 § 7.

**§ 617. Bidding time.**

A bidding time of at least thirty (30) calendar days shall be provided unless the Procurement Officer makes a written and substantiated determination that a shorter time period is reasonable and necessary. The minimum time period should not be less than fifteen (15) days after the notice of invitation for bids is posted.

**Source**  
RPPL 3-54 § 17.

**§ 618. Bidder's mailing list.**

A list of potential bidders and suppliers requesting copies of invitation for bids in response to the public notice shall be maintained by the Procurement Officer concerned. The list will be updated by the Procurement Officer on an annual basis.

**Source**  
RPPL 3-54 § 18.

**§ 619. Bid receipt.**

Bids, upon receipt at the location specified in the invitation for bids, shall be kept unopened and secured in a locked receptacle. Bids which are opened in a time or in a manner not complying with section 620 herein shall be resealed in the envelope and the person who opened the bid shall write his signature and title on the envelope and deliver it to the Procurement Officer. No information contained in the bid shall be disclosed prior to bid opening.

**Source**  
RPPL 3-54 § 19, modified.

**§ 620. Bid opening and recording.**

The bid opening shall be conducted by the Procurement Officer [or] his designee. The bids will be opened publicly in the presence of at least two (2) witnesses at the time and place designated in the invitation. The Procurement Officer shall record the amount of each bid together with the name of each bidder and prepare a written summary of the bid opening, to be countersigned by the witnesses. All bids and the summary shall be opened for public inspection.

**Source**

RPPL 3-54 § 20.

**Notes**

The bracketed “[or]” does not appear in the original legislation.

Shell Co. v. Palau Pub. Utils. Corp., 15 ROP 158, 161 (Tr. Div. 2008).

Black Micro Corp. v. Rengulbai, 14 ROP 196, 198 (Tr. Div. 2007).

**§ 621. Bid acceptance and evaluation.**

Bids shall be unconditionally accepted without alteration or correction except as authorized by this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids.

**Source**

RPPL 3-54 § 21, modified.

**§ 622. Bid rejection.**

A bid may be rejected for any of the following reasons as determined by the Procurement Officer concerned in writing:

- (a) failure to comply with material requirements of the invitation for bids such as specifications or time of delivery;
- (b) imposition of conditions by the bidder, which conditions limit the bidder’s liability or modify requirements for the invitation. For example, bids may be rejected when the bidder:
  - (1) protects against future changes in conditions, such as increased cost; or
  - (2) fails to state a definite price; or
  - (3) states a price but qualifies it as subject to price in effect at time of [delivery];  
or
  - (4) limits the rights of the government; or
  - (5) is nonresponsive.

(c) A bid may be rejected if the bidders is not responsible as determined in accordance with section 631 of this chapter.

**Source**

RPPL 3-54 § 22, modified.

**Notes**

The bracketed “[delivery]” in § 622(b)(3) does not appear in the original legislation.

Black Micro Corp. v. Rengulbai, 14 ROP 196, 198 (Tr. Div. 2007).

**§ 623. Correction or withdrawal of bids; cancellation of awards.**

Correction or withdrawal of inadvertently erroneous bids, before or after award, or cancellation of awards or contracts based on bid mistakes must be approved in writing by the Procurement Officer concerned in writing. After the bid opening no changes in bid price or other provisions or bids prejudicial to the interest of the government or fair competition shall be allowed. If the bidder alleges an error, the government shall only permit correction of the bid or withdrawal of the bid in accordance with subsections (a) or (b).

(a) Correction of bids shall only be permitted when:

(1) an obvious clerical mistake is clearly evident from examining the bid document. Examples of such mistakes are errors in addition or the obvious misplacement of a decimal point; or

(2) the otherwise low bidder alleges a mistake and the intended bid is evident from the bid document or is otherwise supported by clear and convincing evidence as to the bid intended and the corrected bid remains the low bid. A low bidder may not be permitted to correct a bid mistake resulting from an error in judgment.

(b) Withdrawal of bid shall only be permitted where the otherwise low bidder alleges a mistake and there is clear and convincing evidence as to the existence of a mistake.

(c) Cancellation of awards or contracts shall be permitted only when:

(1) evidence as to the existence of the mistake could not reasonably be discovered until after the award; or

- (2) there exists no clear and convincing evidence to support the bid intended; or
- (3) performance of the contract at the award price would be unconscionable.

**Source**  
RPPL 3-54 § 23, modified.

**§ 624. Awards.**

- (a) The contract must be awarded in accordance with this chapter with reasonable promptness, but in no event later than thirty (30) days after opening of the bids, by written notice to the responsible bidder whose bid fully meets the requirements of the invitation for bids and this chapter. Unsuccessful bidders also shall be promptly notified.
- (b) Notice of an award shall only be made by the presentation of a contract with all of the required government signatures to the bidder. Government contracts shall contain a clause which states that the signature of the private contractor shall be the last in time to be affixed to a contract and that no contract can be formed prior to the approval of all required government officials. These officials are the Procurement Officer concerned or his designee, the Attorney General or the States Attorney, if any, and the Director of the Bureau of Program, Budget, and Management, or in the case of state government contracts, the Governor or his designee.
- (c) In the event all bids exceed available funds and the bid of the lowest responsive and responsible bidder does not exceed those funds by more than five percent (5%), the Procurement Officers may negotiate an adjustment of the bid price including changes in bid requirements with the lowest responsive and responsible bidder in order to bring the bid price within the amount of available funds. The negotiation shall be documented in writing and attached to the bidding documents.
- (d) The person responsible for the obligation or expenditure of funds shall accept the lowest responsible bid from the lowest responsible bidder who offers to perform the project according to the set standards at the lowest cost within thirty (30) days following the opening of a bidding; provided, that if a responsible bid in an amount less than one hundred thousand dollars (\$100,000) is submitted by an entity wholly owned by a person or persons of Palauan citizenship is no more than twenty five percent (25%) higher than the lowest responsible bid submitted by an entity not of by wholly Palauan ownership, then the bid by wholly Palauan entity shall be accepted; provided further that the National Director of Budget and Finance first certifies on the bid document that sufficient funds

are available to meet the bid, and such acceptance shall form a contract.

**Source**

RPPL 3-54 § 24, modified.

**§ 625. Small purchases.**

(a) Any procurement not exceeding twenty thousand dollars (\$20,000) may be made in accordance with the small purchase procedures to be established by regulations promulgated by the Minister of Finance. However, procurement requirements shall not be artificially divided so as to constitute a small purchase. Preference shall be given to locally produced goods and local services.

(b) Formal bidding is not required, but it is encouraged for all items not exceeding twenty thousand dollars (\$20,000). Except that the competitive bidding procedure shall be required on any items sought by the state governments of ten thousand dollars (\$10,000) or more.

(c) The following procedures shall be applied to the purchase of goods and services less than twenty thousand dollars (\$20,000).

(1) For all small purchases over five thousand dollars (\$5,000) but less than twenty thousand dollars (\$20,000) not put to bid, the Procurement Officer concerned or his designee shall obtain price quotations from at least three (3) vendors and base the selection on competitive price, quality, delivery time, preferential treatment of locally produced goods and local services, and other relevant factors. A written documentation of the three quotes, the vendors submitting the quotes, and the basis for selection shall be maintained in the purchase order file.

(2) Small purchases under five thousand dollars (\$5,000) but over two thousand five hundred dollars (\$2,500) may be made after obtaining two (2) written price quotations, with the exception that for event hosting services, only one (1) price quotation may be required, provided that reasonable justification exists. A written documentation of the quote(s), the vendor(s) submitting the quote(s), and the basis for selection shall be maintained in the purchase order file.

(3) Small purchases under two thousand five hundred dollars (\$2,500) may be made after receiving one (1) written price quotation. A record of the accepted



price quotation shall be maintained in the purchase order file.

**Source**

RPPL 3-54 § 25, modified. Subsection (c) amended by RPPL 7-25 § 2, modified. Amended in its entirety by RPPL 10-26 § 8, modified.

**Notes**

Section 625(b) codified as it appears in original legislation.

The legislative findings regarding the amendment of subsection (c) appears in Section 1 of RPPL 7-25 which reads: “Section 1. Legislative findings. The Olbiil Era Kelulau finds that there is some confusion in the Ministry of Finance about the requirements for multiple bids on government procurement of small purchases under \$5,000. The Olbiil Era Kelulau finds that it is the intent of the current law not to require multiple bids or price quotes on small purchases under \$5,000. Due to the confusion at the Ministry of Finance, the Olbiil Era Kelulau finds that it is appropriate to clarify the law on this issue by amending 40 PNC 625(c).”

**§ 626. Competitive negotiated contracts.**

(a) When the Procurement Officer determines in a substantiated writing that the use of competitive sealed bidding is either not practical or not advantageous to the government, contracts may be awarded by competitive negotiation.

(b) A request for proposals shall be issued and shall include:

- (1) request for proposal number;
- (2) date of issuance;
- (3) name, address, and location of issuing office, including address for submission of proposals;
- (4) closing date [for] submission of proposals;
- (5) description of required goods or services to be procured;
- (6) evaluation criteria to be used by the government in comparing technical proposals;
- (7) instructions for offerors to use in submitting technical and cost proposals, including number of copies required;
- (8) quantity of goods or services to be provided;

- (9) time, place and method of delivery or performance requirements; and
  - (10) any local preference evaluation factors.
- (c) Adequate public notice of the request for proposals shall be given in the same manner as provided for in competitive sealed bids.
- (d) The Procurement Officer concerned shall maintain a list of prospective offerors. This list shall be updated by the Procurement Officer on an annual basis.
- (e) Proposals shall be opened and used only by government personnel authorized to participate in the evaluation process until the award. Proposals shall be available for public inspection after contract award.
- (f) Proposals projected to require expenditures in excess of one million dollars (\$1,000,000) shall be evaluated by a minimum of three government or private evaluators in accordance with the evaluation criteria contained in the request for proposals. Each evaluator shall document the results of his or her evaluation. The Procurement Officer concerned shall review the evaluations and select the best proposal. The Procurement Officer's decision shall be included in the contract file.
- (g) Discussions shall be conducted with those responsible offerors whose proposals are determined by the Procurement Officers to have a reasonable chance of being selected for award. These discussions shall be conducted for the purpose of obtaining clarification from the offeror on the proposal and to ensure full understanding of and responsiveness to requirements of the request for proposal. Offerors shall be accorded fair and equal treatment with respect to any opportunity or discussion and revision of proposals and such revisions may be permitted after submission and prior to award for the purpose of obtaining the best final offers. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing [offerors].
- (h) Award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to the Republic taking into consideration price and other evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation, and the contract file shall contain a detailed description of the findings and the basis on which the award is made.

**Source**  
RPPL 3-54 § 26, modified.

**Notes**

In subsection (b)(4) the bracketed “[for]” reads “or” in the original legislation RPPL 3-54. In subsection (g) the bracketed “[offerors]” reads “of errors” in the original legislation.

**§ 627. Sole source procurement.**

(a) Contracts that require an expenditure of twenty thousand dollars (\$20,000) or less may be awarded for a supply, service, or construction item without competition when the Procurement Officer determines in a substantiated writing that there is only one reliable source of the required supply, service, or construction item.

(b) The written determination shall be included in the contract file and shall contain the following information:

(1) the unique capabilities of the source that are required, why they are required, and the degree of consideration given to other sources;

(2) the facilities or equipment of the source that are required and why they are required; and

(3) whether the work experience of the source on similar efforts will eliminate unnecessary expense for time or duplication of effort required to bring another source up to that level of experience.

(c) Other potential suppliers of the supply, service or construction item may protest the determination of the Procurement Officer. Upon showing that such potential suppliers can qualify as responsible offerors and bidders any future procurement of such items shall be conducted using a method other than sole source procurement.

**Source**

RPPL 3-54 § 27, modified. Amended in its entirety by RPPL 10-26 § 9.

**§ 628. Emergency procurement.**

(a) Notwithstanding any other provision of this chapter, the President of the Republic acting under Article VIII, Section 14, of the Constitution and other supporting or authorizing statutes may authorize the Procurement Officer concerned to make an emergency procurement. An emergency procurement shall be as competitive as practicable under the circumstances. A detailed and substantiated written determination

describing the reason for the emergency procurement, the extent of competition obtained if any, and the basis for selection of a particular contractor shall be prepared by the Procurement Officer concerned and made part of the contract file. The Procurement Officer shall provide a written report regarding the emergency procurement to the President of the Republic and to the presiding officers of the Olbiil Era Kelulau.

(b) For a State's declaration of a State of Emergency to be confirmed, after such declaration by the State's Governor, the National Emergency Management Office shall determine the extension of risk and danger to those lives or property threatened and submit said determination to the Office of the President of the Republic. The President may affirm the State's declaration of emergency in order to allow for emergency procurements in the State subject to the procurement and reporting provisions of subsection (a). Emergency procurements shall be limited to a span of ten (10) days. The ten (10) day period may be extended at the discretion of the President. Emergency procurements over ten thousand dollars (10,000) shall be audited by the Public Auditor within one (1) year of such procurement.

**Source**

RPPL 3-54 § 28, modified. Amended in its entirety by RPPL 10-26 § 10, modified.

**§ 629. Professional services.**

(a) The services of accountants, dentists, physicians, lawyers, or other professional services subject to negotiation based upon proposals submitted and/or qualifications shall be procured as provided in this section, except when authorized as a small purchase, emergency procurement, or sole-source procurement. This section and chapter shall not apply to personnel contracts providing for the employment of professionals in normal government positions.

(b) It is the policy of the Republic to publicly announce all requirements for professional services and negotiate contracts on the basis of demonstrated competence and qualifications at the fair and reasonable price. The Procurement Officers shall maintain files of current statements of qualifications of professional firms. Persons engaged in providing professional services may submit statements of qualifications and expressions of interests in providing such types of services. These statements will be retained by the Procurement Officers for a period of one (1) year, after which time the person should file a new statement.

(c) Adequate notice of the need for such services, a minimum of fifteen (15) days, shall

be given by the Procurement Officer concerned or his designee through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications. The notice shall be given in the same manner as competitive sealed bids.

(d) The Procurement Officer concerned or his designee may conduct discussion with any offeror who has submitted a proposal to determine such offeror's qualification for further consideration. In all cases involving employment of professionals, the Procurement Officer shall consult with the using agency and with members of the same profession who are employed by the government. The decision to hire a particular professional shall be rendered by agreement between the Procurement Officer and the using agency. Discussions shall not disclose any information derived from proposals submitted by other offerors.

**Source**  
RPPL 3-54 § 29, modified.

**§ 630. Cancellation of invitation for bids or request for proposals.**

(a) An invitation for bids or request for proposal may be cancelled and any bids or proposals may be rejected when such action is determined in writing by the Procurement Officer concerned to be in the best interest of the government based upon:

- (1) inadequate specifications contained in solicitation; or
- (2) the goods or services being procured are no longer required; or
- (3) a change in specifications; or
- (4) all offers received being at unreasonable prices; or
- (5) bids or proposals received indicating that the needs of the government can be met by a less expensive good or service;
- (6) collusive bids; or
- (7) all bids or proposals exceeding the funds available.

(b) A written determination of the reasons for the cancellation or rejection will be included in the contract file.

**Source**  
RPPL 3-54 § 30, modified.

**§ 631. Responsibility of bidders and offerors.**

(a) Awards shall be made only to responsible bidders or offerors. Responsible bidders or offerors shall:

- (1) have adequate financial resources to perform the contract or the ability to obtain the finances;
- (2) be able to comply with required delivery or performance schedule;
- (3) have the necessary organization, experience, and skills required to perform the contract or have ability to obtain them;
- (4) have the necessary production, construction, and technical equipment facilities or the ability to obtain them; and
- (5) be qualified and eligible to receive the award under applicable laws and rules.

(b) Prior to award, the Procurement Officer concerned may obtain information from the bidder or offeror necessary to make a determination of responsibility using the factors in subsection (a) above. A written, detailed, and substantiated determination of responsibility shall be made prior to the award of any contract calling for purchases of goods or services exceeding one hundred thousand dollars (\$100,000). The failure of a bidder or offeror to supply information in connection with an inquiry with respect to responsibility may be grounds for determination of non-responsibility. For the purposes of determining responsibility the Procurement Officer may request inspection of the plant or place of business of the bidder or offeror at a reasonable time, and the Procurement Officer may request the bidder or offeror to submit documents or other records for inspection. Failure to comply promptly with such requests shall be grounds for a determination that the bidder or offeror has failed to meet the standards of responsibility.

**Source**  
RPPL 3-54 § 31, modified.

**632. Prequalifications of offerors and bidders.**

Prospective suppliers may be prequalified for particular types of supplies, services, and construction. Solicitation of mailing lists of potential contractors shall include but shall not be limited to such prequalified suppliers. Prequalification lists shall be maintained for one (1) year. When a bidder or offeror is disqualified for failure to meet the standards of responsibility, a written determination shall be prepared and placed in the contract file.

**Source**  
RPPL 3-54 § 32, modified.

**§ 633. Right to inspect place of business.**

All invitations to bid and all requests for proposals shall contain the following clause:

“Bidder or Offeror acknowledges that the submission of a bid or offer provides the Republic of Palau the right to inspect at reasonable times the part of the plant or place of business of a contractor or subcontractor which is related to the performance of any contract awarded by the government. Failure to allow inspection may result in the rejection of the bid or proposal or contract.”

**Source**  
RPPL 3-54 § 33.

**§ 634. Reports of anti-competitive practices.**

When for any reason collusion or other anti-competitive practices are suspected among any bidders, offerors, or contractors, notice of the relevant facts shall be transmitted to the Attorney General for further investigation and prosecution.

**Source**  
RPPL 3-54 § 34.

**§ 635. Retention of procurement record.**

(a) All procurement records shall be retained and disposed of in accordance with rules and schedules approved by the Minister of Finance except for emergency and sole source procurements. Records for emergency and sole source procurements shall be maintained for a period of three (3) years.

- (b) Each of the records shall contain:
  - (1) contractor's name and address;
  - (2) the amount and type of each contract; and
  - (3) a listing of the suppliers, services, or construction procured under the contract.

**Source**  
RPPL 3-54 § 35, modified.

**§ 636. Contract file documentation.**

An official contract file shall be established for each contract and contain the following information:

- (a) purchase requisition;
- (b) public notice;
- (c) bid or offeror's mailing list;
- (d) invitation for bids or request for proposals;
- (e) bid abstract or record;
- (f) evaluation results in the case of a negotiated procurement;
- (g) notice of award to unsuccessful bidders or offerors;
- (h) contract;
- (i) basis for cost or price; and
- (j) determination (e.g. emergency sole source, or non-responsibility).

**Source**  
RPPL 3-54 § 36, modified.



**§ 637. Required contract clauses.**

All contracts will include the following types of clauses:

- (a) a prohibition against gratuities and kickbacks as required by section 656 of this chapter;
- (b) clauses providing for:
  - (1) remitted adjustments in prices, if any;
  - (2) time of performance;
  - (3) liquidated damages, as appropriate;
  - (4) specified excuses for delay or non-performance;
  - (5) termination of the contract for default; and
  - (6) termination of the contract in whole or in part for the convenience of the government, if applicable;
- (c) right to inspect place of business;
- (d) right to examine, copy, and audit books and records of contractors and subcontractors;
- (e) right to make change orders in construction contracts;
- (f) contractor shall sign contract only after all authorized government officials have signed; and
- (g) contractor records shall be maintained for three (3) years from the date of final payment by the government.

**Source**  
RPPL 3-54 § 37, modified.

**§ 638. Duties of the Procurement Officers.**

The Procurement Officers or their designees shall be responsible for monitoring the use of specifications for construction, goods, and services to be procured.

**Source**  
RPPL 3-54 § 38.

**§ 639. Relationship with using agencies.**

The Procurement Officer concerned shall obtain expert advice and assistance from personnel of using agencies in the development of specifications and may delegate in writing to a using agency the authority to prepare and utilize its own specifications.

**Source**  
RPPL 3-54 § 39.

**§ 640. Maximum practicable competition.**

All specifications shall seek to promote overall economy for the purposes intended and encourage competition in meeting the needs of the Republic and shall not be unduly restrictive.

**Source**  
RPPL 3-54 § 40.

**§ 641. Content of specifications.**

(a) Specifications shall, whenever practicable, present a description of the qualitative nature of the construction material, goods, or service being procured and set forth, when necessary, the essential characteristics to which it must conform in order to satisfy its intended use. Specifications normally do not specify a particular product peculiar to one manufacturer unless the particular product is essential to the requirements of the government and not available from other companies.

(b) The requirements of sections 638 through 641 shall apply to all specifications, including those prepared by architects, engineers, and land surveying services for public contracts.

**Source**  
RPPL 3-54 § 41, modified.

**§ 642. Application.**

Sections 643 through 647 of this chapter shall apply to the procurement of construction services.

**Source**  
RPPL 3-54 § 42, modified.

**§ 643. Invitation for bids.**

(a) The Procurement Officers shall determine the fee (not less than fifty dollars (\$50.00)) required for potential bidders to obtain an invitation for bids.

(b) The invitation for bids shall be prepared in accordance with section 615 of this chapter. In addition, the following items shall be included in the invitation.

- (1) Notice to Bidders - general information about the project;
- (2) Instruction to Bidders - information concerning bid preparation, bid security special banking requirements, and forms and certifications that must be submitted with the bid;
- (3) General - standard contract clauses governing performance of work;
- (4) Special Conditions - special contract clauses resulting from the nature of the work to be performed; and
- (5) Technical specification - specifications governing the technical aspects of the work to be performed.

**Source**  
RPPL 3-54 § 43, modified.

**§ 644. Bid security.**

(a) Bid security shall be required for all competitive sealed bidding construction contracts when the Procurement Officer concerned estimates that the price exceeds fifty thousand dollars (\$50,000). The bid security shall be in the form of a bid bond, cash, certified check, cashier's check, or other form acceptable to the government. Nothing herein prevents the Procurement Officer concerned from requiring bid security for

contracts under fifty thousand dollars (\$50,000) when it would be in the best interest of the government.

(b) Bid security shall be an amount equal to at least ten percent (10%) of the amount of the bid.

(c) Once the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, except as provided for in section 623 of this chapter. If a bidder is permitted to withdraw its bid before award, no action shall be taken against the bidder or the bid security. Bidders allowed to cancel awards under section 623 shall forfeit their bid security.

(d) Except as otherwise provided by this chapter, bid security shall be reimbursed within one hundred twenty (120) days after the opening of the bids, if such a bid did not receive the award.

(e) Insofar as the provisions of this law are inconsistent with grant terms imposed by foreign donors, the Minister of Finance shall be authorized to suspend the application of those provisions of this law which are inconsistent with the grant terms provided that the Minister of Finance shall exercise this authority only upon written notice to the President, the Presiding Officers of the Olbiil Era Kelulau, and the Public Auditor addressing the nature of any such inconsistency.

**Source**

RPPL 3-54 § 44, modified.

**§ 645. Contract performance and payment bonds.**

(a) When a construction contract is awarded in excess of one hundred thousand dollars (\$100,000), the following bonds or security shall be delivered to the government and shall be binding on the parties upon execution of the contract:

(1) a performance bond acceptable to the government, executed by a surety acceptable to the government in an amount equal to one hundred percent (100%) of the price specified in the contract; and

(2) a payment bond acceptable to the government, executed by a surety acceptable to the government, for the protection of all persons supplying labor and material to the contractor or its subcontractors for performance of the work

specified in the contract. The bond shall be an amount equal to one hundred percent (100%) of the price specified in the contract.

(b) The Procurement Officer may reduce or waive the performance and payment bond requirements for any construction contract awarded in excess of one hundred thousand dollars (\$100,000) but not more than two hundred fifty thousand dollars (\$250,000) if it is determined to be in the best interest of the government to do so because of lack of qualified bidders meeting the bonding requirements.

(c) The Procurement Officer may reduce the amount of the performance and payment bonds for any construction contracts awarded in excess of two hundred fifty thousand dollars (\$250,000) provided he determines that the lesser amount is sufficient to protect the government's interest. The reduced amount shall not be below fifty percent (50%) of the price specified in the contract for either the performance or payment bonds.

**Source**

RPPL 3-54 § 45, as amended by RPPL 4-1 § 15(c), modified.

**Notes**

The \$100,000 limit in § 645(a) applies to contracts awarded after October 1, 1992. The prior limit was \$50,000.

**§ 646. Suits on payment bonds.**

Notwithstanding any other provision of law:

(a) Every person who has furnished labor or material to a contractor or its subcontractors for the work provided in the contract in respect of which a payment bond is furnished under section 645, and who has not been paid in full therefore before the expiration of ninety (90) days after the day on which the last of the labor was performed by such person or material was furnished or supplied by such person for which such claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute said action for the sum or sums justly due such person; provided, however that any person having a direct contractual relationship with a subcontractor of the contractor but no contractual relationship express or implied with the contractor furnishing said payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within ninety (90) days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material upon which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Such notice

shall be personally served or served by mailing the same by registered or certified mail, postage prepaid in an envelope addressed to the contractor at any place the contractor maintains an office or conducts its business.

(b) Every suit instituted upon a payment bond shall be brought in the Supreme Court of the Republic; but no such suit shall be commenced after the expiration of one (1) year after the day on which the last of the labor was performed or material was supplied by the person bringing suit. The obligee named in the bond need not be joined as a party in any such suit.

**Source**

RPPL 3-54 § 46, modified.

**§ 647. Fiscal responsibility.**

Every contract modification, change order, or contract price adjustment under a construction contract shall be subject to prior written certification by the Procurement Officer concerned as to the effect of the contract modification, change order or adjustment in contract price on the total project budget or the total contract budget. In the event that the certification discloses a resulting increase in the total project budget and/or the total contract budget, such contract modification, change order, or adjustment in contract price shall not be made unless sufficient funds are available therefore, or the scope of the project or contract is adjusted so as to permit the degree of completion that is feasible within the total project budget and/or total contract budget as it existed prior to the contract modification, change order or adjustment in contract price under consideration; provided, however, that with respect to the validity, as to the contractor, of any executed contract modification, change order or adjustment in contract price which the contractor has reasonably relied upon, it shall be presumed that there has been compliance with the provisions of this subsection.

**Source**

RPPL 3-54 § 47.

**§ 648. Architect-engineer and land surveying services.**

(a) Architect-engineer and land surveying services shall be procured as provided for in this section except when authorized as a small purchase, emergency, or sole source procurement.

(b) It is the policy of the Republic to publicly announce all requirements for

architect-engineer and land surveying services and to negotiate contracts based on demonstrated competence and qualifications for the type of services required at a fair and reasonable price.

(c) The Procurement Officers or other designated officials shall maintain files of current statements of qualifications of architect-engineer and land surveying businesses. These lists will be updated on annual basis by the Procurement Officers. After public announcement of a requirement for these services, the Procurement Officers or designated officials shall evaluate current statements of qualifications and performance on file together with those that may be submitted by other businesses in response to the public announcement. Discussions shall be conducted with no fewer than three of the businesses regarding contract requirements and technical approach, and a selection made therefrom, in order of preference of no less than three businesses determined to be the best qualified to perform the service.

(d) The Procurement Officer concerned or his designee shall negotiate a contract with the best qualified architect-engineer or land surveying service at a price determined to be fair and reasonable to the government. In this negotiation process, the Procurement Officer shall take into account the value, the scope, the complexity, and nature of the services to be provided. If the Procurement Officer cannot negotiate a fair and reasonable price with the best qualified firm, negotiations shall be terminated and negotiations shall be undertaken with the second-highest qualified firm. Failing accord with the second firm the Procurement Officer shall terminate negotiations and shall undertake negotiations with the third most qualified firm. Should the Procurement Officers be unable to negotiate a fair and reasonable price with any of the three best qualified firms, the Procurement Officers shall select additional firms in order of their competence and qualifications and shall continue negotiations in accordance with this section until an agreement is reached.

**Source**  
RPPL 3-54 § 48, modified.

**§ 649. Authority to resolve protested solicitations and award.**

(a) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Procurement Officer concerned. The protest shall be submitted in writing within fourteen (14) days after such aggrieved person knows or should have known of the facts giving rise thereto.

(b) The Procurement Officers shall have the authority, prior to the commencement of an

action in the Supreme Court of the Republic concerning the controversy, to settle and resolve a protest of an aggrieved bidder, offeror, or contractor, actual or prospective concerning the solicitation or award of a contract. The Procurement Officer will acknowledge receipt of protests within five (5) working days after receipt and shall render a final decision within thirty (30) days after receipt of the protest.

(c) If the protest is not resolved by mutual agreement, the Procurement Officer concerned shall promptly issue a decision in writing. This decision shall state in detail the reasons for the actions taken.

(d) A copy of the decision under subsection (c) of this section shall be mailed or otherwise furnished immediately to the protestor and any other party intervening within thirty (30) days after receipt of the protest.

(e) A decision under subsection (c) of this section shall be final and conclusive, unless fraudulent, or unless any person adversely affected by the decision seeks review of the decision by the Supreme Court of the Republic within six (6) months after notice of the decision is served.

(f) In the event of a timely protest under subsection (a) of this section the government shall not proceed further with the solicitation or with the award of the contract until the Procurement Officer concerned makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the government.

**Source**

RPPL 3-54 § 49, modified.

**§ 650. Remedies.**

(a) If, prior to an award, the Procurement Officer concerned determines that a solicitation or award of contract is in violation of law or these regulations, then the solicitation or proposed award shall be cancelled or be revised to comply with law or regulation.

(b) If after an award, the Procurement Officer concerned determines that a solicitation or proposed award of a contract is in violation of law or regulation, then:

(1) if the person awarded the contract has not acted fraudulently or in bad faith:

(A) the contract may be ratified and affirmed provided it is determined by



the Procurement Officer in a detailed and substantiated writing that doing so is in the best interests of the government; or

(B) the contract may be terminated and the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract, plus a reasonable profit prior to termination.

(2) if the person awarded the contract has acted fraudulently or in bad faith:

(A) the contract shall be declared null and void; or

(B) the contract may be ratified and affirmed if such action is in the best interests of the government without prejudice to the government's rights to such damages as may be appropriate.

**Source**

RPPL 3-54 § 50, modified.

**§ 651. Authority to resolve contract dispute.**

(a) This section applies to controversies between the government and a contractor and which arise under, or by virtue of, a contract between them. This includes, without limitation, controversies based upon performance, interpretation, or compensation due under said contract.

(b) The Procurement Officer concerned is authorized to settle and resolve a controversy described in subsection (a) above.

(c) Any dispute must be filed in writing with the Procurement Officer concerned within fourteen (14) calendar days after obtaining knowledge of the facts surrounding the dispute. If such a dispute is not resolved by mutual agreement, the Procurement Officer shall issue a decision in writing within ninety (90) days after receipt of notice of dispute. The decision shall include:

(1) a description of the dispute;

(2) reference to pertinent contract terms;

(3) a statement of factual areas of disagreement or agreement; and

(4) a statement of decision as to the factual areas of disagreement and conclusion of the dispute with any supporting rationale.

(d) A copy of the decision under subsection (c) above shall be mailed or otherwise furnished immediately to the contractor within ninety (90) days after receipt of the notice of dispute.

(e) The decision under subsection (c) of this section shall be final and conclusive unless fraudulent or unless any person adversely affected by the decision seeks review of the decision by the Supreme Court within six (6) months after notice of the decision is served.

(f) A contractor that has a dispute pending before a Procurement Officer must continue to perform according to the terms of the contract and failure to continue shall be deemed to be material breach of the contract unless the contractor obtains a waiver of this provision from the Procurement Officer.

(g) If the Procurement Officer does not issue the written decision required under subsection (c) of this section within ninety (90) days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision had been received.

**Source**

RPPL 3-54 § 51, modified.

**§ 652. Definition of terms.**

As used in sections 653 through 660 of this chapter:

(a) “Confidential information” means any information which is available to an employee only because of the employee’s status as an employee of a government organization and is not a matter of public knowledge or available to the public on request.

(b) “Conspicuously” means written in such special or distinctive form, print, or manner such that a reasonable person affected by the writing would have been aware of it.

(c) “Dependent” means a son, daughter, parties, brother, sister or other person if such person receives from the employee or provides to the employee more than one-half of his financial support.

(d) “Direct or indirect participation” means involvement through decision, approval, disapproval, recommendation, and preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, or participation in any other advisory capacity.

(e) “Financial interest” means any interest, ownership, or involvement in any relationship which would result in the holder receiving a direct or indirect benefit or a future entitlement to receive more than ten thousand dollars (\$10,000) per year or its equivalent or holding a position in a business such an officer, director, trustee, partner, employee or holding any position of management.

(f) “Gratuity” means a payment, loan, subscription, advance, or deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

(g) “Immediate family” means a spouse, parents, child, or sibling and any other person residing in the same household as the employee who is a dependent of the employee or of whom the employee is a dependent.

**Source**

RPPL 3-54 § 52, terms put into alphabetical order and section modified.

**Notes**

ROP v. Sakuma, 10 ROP 221, 222 (Tr. Div. 2003).

**§ 653. General standards.**

Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee’s duties is a breach of a public trust. In order to fulfill this ethical standard, employees must meet the requirements of sections 655 through 660 herein. Any effort to influence any public employee to breach the standards of ethical conduct set forth in these regulations is also a breach of ethical standards.

**Source**

RPPL 3-54 § 53, modified.

**§ 654. Employee conflict of interest.**

(a) It is a breach of ethical standards for any employee of a government agency to participate directly or indirectly in a procurement with that government agency if:

(1) the employee or any member of the employee’s immediate family or a dependent of the employee has a financial interest pertaining to the procurement; or

(2) a business or organization in which the employee, or any member of the employee’s immediate family or dependent has a financial interest pertaining to the procurement; or

(3) any other person, business or organization with whom the employee or any member of the employee’s immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

(b) It is permissible for an employee to have an interest in a procurement with a government agency other than the one at which he is employed provided:

(1) the employee does not participate directly or indirectly in the procurement nor does he attempt to influence actions relative to the award of the procurement;

(2) the employee discloses his ownership interest; and

(3) the procurement is awarded as a result of a competitive sealed bidding or competitive negotiation.

(c) Upon discovery of an actual or potential conflict of interest, an employee shall promptly file with the Procurement Officer concerned a written statement of disqualification and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply to the Public Auditor for an advisory opinion as to what further participation, if any, the employee may have in the transaction.

(d) Each government agency shall provide a written standard of conduct for conflicts of interest in procurements for its employees consistent with this subchapter.

**Source**

RPPL 3-54 § 54. Subsection (d) is added by RPPL 10-26 § 11.

**Notes**

In section 654(b)(1), the word “nor” reads “not” in the original legislation.

ROP v. Sakuma, 10 ROP 221, 222, 223 (Tr. Div. 2003).  
Renguul v. ASPLA, 8 ROP Intrm. 282, 283, 285 (2001).

**§ 655. Employee disclosure requirements.**

An employee shall disclose to the Attorney General or State Attorney, if any, and the Procurement Officer, on forms provided by the Procurement Officer all interests, ownership, or involvement with any business which has bid on a government procurement actions recommendation, if the employee was involved in the preparation of any part of a program requirement or a purchase order request, or influenced the content of any specification or procurement standard, rendered advice, or participated in any other advisory capacity in any proceeding or application relative to the procurement of goods, services, or construction.

**Source**  
RPPL 3-54 § 55.

**§ 656. Kickbacks and gratuities.**

It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher subcontractor or any person associated therewith as an inducement for the award of a subcontract or order. It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application request for ruling, determination, claim, or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal thereof.

**Source**  
RPPL 3-54 § 56, modified.

**§ 657. Contract clauses.**

The prohibitions against gratuities and kickbacks shall be conspicuously set forth in every contract and solicitations therefor.

**Source**  
RPPL 3-54 § 57.

**§ 658. Restrictions on employment of present and former employees.**

(a) It shall be a breach of ethical standards for any employee who is participating directly or indirectly in the procurement process to become an employee of a person contracting with the employee’s government agency within a year after the award of the contract or the cancellation of invitation for bids.

(b) It shall be a breach of ethical standards for any former employee knowingly to act as a principal or as an agent for any person, other than the government, in connection with any judicial or other legal proceeding, request for a ruling or other determination, claim, charge, or controversy regarding a procurement action in which the employee participated personally and substantially through decision, approval, disapproval, or recommendation.

(c) It shall be a breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal or as an agent for anyone other than the government in connection with any judicial or other legal proceedings, or contract claim, or charge or controversy in which the employee either participates personally and substantially through decision approval, disapproval, recommendation[,] the rendering of advice or otherwise.

**Source**  
RPPL 3-54 § 58, modified.

**Notes**  
The “[,]” in subsection (c) does not appear in the original legislation.

**§ 659. Use of confidential information.**

It shall be a breach of ethical standards for any employee or former employee to knowingly use confidential information for actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

**Source**  
RPPL 3-54 § 59.

**§ 660. Collusion by bidders.**

Collusion or secret agreements between bidders for the purpose of securing an advantage to the bidders against the authorizing agent in the awarding of contracts is prohibited. The Procurement Officers may declare the contract void if he finds sufficient evidence after a contract has been let

that the contract was obtained by a bidder or bidders by reason of collusive or secret agreement among the bidders to the disadvantage of the government.

**Source**  
RPPL 3-54 § 60.

**§ 661. Penalties.**

(a) An employee who violates the provisions of this chapter shall be subject to adverse action as may be appropriate in his particular circumstances. This action includes, but is not limited to, reprimand, suspension without pay, termination of employment, civil injunction, civil suit for damages or return of government money, or criminal prosecution. Procurement Officers may conduct proceedings providing for reprimand and/or suspension without pay for up to sixty (60) days.

(b) A contractor who violates a provision of these rules and regulations shall be subject to a written warning of reprimand, the termination of the contract or suspension from being a contractor or subcontractor under a government contract, in addition to other penalties prescribed by law.

(c) All proceedings under this section must be in accordance with due process requirements including, for employees, the provisions of the Administrative Procedure Act and Title 33 of the Palau National Code Annotated and for non-employees a right to notice and an opportunity for a hearing prior to imposition of any termination, debasement, or suspension from being a contractor or subcontractor under a government contract.

**Source**  
RPPL 3-54 § 61, modified.

**§ 662. Recovery of value transferred or received in breach of ethical standards.**

(a) The value of anything transferred or received in breach of the ethical standards of this article or regulations promulgated hereunder by an employee or non-employee may be recovered from either the employee and non-employee by the government. Upon showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the government and such amount will be recoverable hereunder

from the recipient. In addition said amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

(b) Any citizen of the Republic shall have standing to bring his own cause of action to enforce the provisions of sections 655 through 660 of this chapter. Any citizen who prevails in a suit brought pursuant to this subsection shall be entitled to recover reasonable attorney's fees and court costs associated with the prosecution of such action, including appeals proceedings, as part of the damages awarded.

**Source**

RPPL 3-54 § 62, modified.

**Notes**

ROP v. Sakuma, 10 ROP 221, 223 (Tr. Div. 2003).

**§ 663. Authority to debar or suspend.**

(a) After reasonable notice to the person involved and reasonable opportunity for the person to be heard, the Procurement Officers, after consultation with the Attorney General shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three (3) years. The same Officer, after consultation with the Attorney General, shall have authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding three (3) months.

(b) The causes of debarment or suspension include the following:

- (1) conviction for commission of a criminal offense incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract;
- (2) conviction under statutes prohibiting cheating, embezzlement, theft, forgery, bribery, or any other offense indicating a lack of business integrity, or business honesty;
- (3) violation of contract provisions as set forth below of a character which is regarded by the Procurement Officers to be so serious as to justify debarment action:



(A) deliberate, and without specific good cause, failure to perform in accordance with the specifications within the time limits provided in the contract; or

(B) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contract; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered a basis for debarment.

(4) any other cause that the Procurement Officer determines to be so serious and compelling as to affect responsibility as a government contractor including debarment by another government entity; and

(5) for violation of any of the ethical standards set forth in this chapter.

(c) The Procurement Officer shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.

(d) A copy of the decision shall be mailed or otherwise furnished immediately to the debarred or [suspended] persons.

(e) A decision under subsection (c) of this section shall be final and conclusive.

**Source**

RPPL 3-54 § 63, modified.

**Notes**

The bracketed “[suspended]” in subsection (d) read “suspend” in the statute.

**§ 664. Regulations.**

Once every five (5) years the Minister of Finance shall evaluate the minimum dollar amounts in sections 625 and 627 of this subchapter in conjunction with inflation over the same five (5) years period, and may adjust the dollar by regulation amounts to account for inflation.

**Source**

RPPL 10-26 § 12, modified.

**Subchapter II**  
**Project Inspection**

§ 681. CIP Project Inspection.

**§ 681. CIP project inspection.**

(a) All capital improvement projects funded in whole or in part from funds from the National Treasury shall be inspected by personnel from the CIP office during construction of the project to ensure proper construction and compliance with sound construction practices and with the architectural and engineering plans for the project. Within five (5) days of each inspection, the inspector(s) shall prepare a written report of the results of the inspection, and the report shall be reviewed, approved and certified by an engineer who has an engineering degree from a college or university. If the reviewing engineer determines that the project is not proceeding in a satisfactory manner, the reviewing engineer shall inform the inspector(s) of the reason therefor, and shall direct the inspector(s) to take such actions as he shall deem necessary to ensure proper construction and compliance with sound construction practice and with the architectural and engineering plans for the project. Each certified inspection report shall be submitted to the Minister of Public Infrastructure and Industries and the Olbiil Era Kelulau within five (5) days of certification.

(b) Within ninety (90) days after the effective date of this section, the CIP Office shall adopt regulations which set standards for building government construction projects. Any construction work funded in whole or in part from funds from the National Treasury which falls below those standards shall be stopped by the CIP Office. To stop construction work on a project, the CIP Office shall issue a Stop Work Order to the project manager. No construction may continue on the project until the CIP Office issues a Release Order after it is satisfied that the project conforms to the appropriate standards set by the CIP Office.

**Source**

RPPL 5-34 § 26, modified.

**Subchapter III  
Grants**

- § 691. Purpose.
- § 692. Grants.
- § 693. Regulations.

**§ 691. Purpose.**

The purpose of this subchapter is to ensure uniform guidance for grants, irrespective of source, in the Republic of Palau similar to the United States of America Office of Management and Budget’s (OMB) “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (commonly referred to as “Uniform Guidance”) as officially implemented in December 2014.

**Source**  
RPPL 10-26 § 13.

**§ 692. Grants.**

The award, acceptance, and administration of grants, irrespective of source, shall be conducted in a manner which is consistent and subject to public scrutiny and audits and with the provisions of this subchapter.

**Source**  
RPPL 10-26 § 13, modified.

**§ 693. Regulations.**

The Minister of Finance shall promulgate regulations consistent with the provisions of [this] subchapter, including, but not limited to:

- (a) commonly accepted accounting standards,
- (b) requirements for publication of grants and awards, and
- (c) minimum auditing requirements for grants.

**40 PNCA § 693**

**REVENUE AND TAXATION**

**Source**

RPPL 10-26 § 13, modified.

**Notes**

The bracketed [this] in the first sentence replaced the word “the” in the original legislation as per Code Commission.

**Chapter 7  
Government Property**

- § 701. Legislative findings.
- § 702. Transfer of national government boats.
- § 703. Inventory of all government vehicles.
- § 704. Establishment of national government boat pool.
- § 705. Use of government vehicles and boats.
- § 706. Criminal penalties.
- § 707. Civil penalties.
- § 708. Boats purchased with grant funds.
- § 709. Unofficial use of government boats prohibited.

**§ 701. Legislative findings.**

The purpose of this chapter is to create a national government boat pool to more efficiently utilize government boats, and to prohibit the use of government vehicles and boats for nongovernmental purposes.

**Source**  
RPPL 5-7 § 61(a), modified.

**§ 702. Transfer of national government boats.**

Not later than October 30, 1997, the Olbiil Era Kelulau, and all ministries, bureaus, divisions, offices and other agencies of the executive branch, and all boards, commissions, and other national government entities that receive funding from the national government shall:

- (a) transfer title to and possession of all boats under their possession or control to the Division of Transportation; and
- (b) submit to the OEK and the Division of Transportation an inventory of all vehicles under their control.

Patrol boats used by the Bureau of Public Safety and the Bureau of Marine Resources and all boats owned by the Judiciary shall be exempt from this requirement.

**Source**  
RPPL 5-7 § 61(b), modified. Amended by RPPL 5-15 § 28(b).

**Notes**

“Bureau of Marine Resources” in the last paragraph reads “Bureau of Natural Resources and Development” in RPPL 5-15 § 28(b) which was eliminated by RPPL 6-26 § 17.

**§ 703. Inventory of all government vehicles.**

Within sixty (60) days after the effective date of this chapter, the Division of Transportation shall compile an inventory of all vehicles and shall submit a written recommendation to the Olbiil Era Kelulau regarding how best to reduce the number of vehicles owned by the national government.

**Source**

RPPL 5-7 § 61(c), modified.

**§ 704. Establishment of national government boat pool.**

(a) Upon the transfer of boats required by this chapter, the Division of Transportation shall establish a boat pool consisting of all boats owned by the national government, except those owned by the Judiciary. The Division may establish a central location for all boats, or the Division may allow one or more of the boats to remain where they were located prior to October 1, 1997; provided, that the Division shall take possession of all keys to all of the boats in the boat pool and shall maintain those keys in one central location. The Division shall adopt written guidelines for the use of all boats in the boat pool. These guidelines shall specify the procedures for reserving, using, and returning the boats. Boats may only be used in conformity with the guidelines.

(b) The Division of Transportation, with the assistance of the Bureau of Public Works, shall be responsible for maintaining all boats in the boat pool, and the Chief of the Division shall be responsible for providing adequate security to protect the boats against damage and vandalism.

(c) The Minister of Finance, in cooperation with the Chief of the Division of Transportation, shall sell all surplus boats by sealed bid to the highest bidder; provided that no agency of the national government may purchase a boat from the boat pool. The Minister may purchase insurance for the boats as he deems appropriate.

**Source**

RPPL 5-7 § 61(d), modified. Subsection (a) amended by RPPL 5-8 § 1(61)(d) and RPPL 5-15 § 28 (d)(1).

**Notes**

Subsection designations were changed from numbers to letters to conform to Code format.

**§ 705. Use of government vehicles and boats.**

National government vehicles and boats may be used only for transportation related to the performance of official government functions.

**Source**

RPPL 5-7 § 61(e) as amended by RPPL 5-8 § 1(61)(e).

**Notes**

Original legislation combined criminal and civil penalties in one section. The Code Commission divided the legislation into the current sections 705, 706 and 707 for clarity. Thus, the term “section” refers to sections 705, 706 and 707.

**§ 706. Criminal penalties.**

Any person who uses a national government vehicle or boat for any other purpose shall be: guilty of a misdemeanor punishable by a fine of one hundred dollars (\$100) for the first offense, five hundred dollars (\$500) for the second offense, and one thousand dollars (\$1,000) for each subsequent offense; subject to disciplinary action; and personally liable for any damage caused to the vehicle or boat, or to any other property or person, during the time the vehicle or boat was being used in violation of this section. For the purposes of this sections 705, 706 and 707, the term “vehicle” means every device in, upon or by which any person or property may be transported upon a public highway,

**Source**

RPPL 5-7 § 61(e) as amended by RPPL 5-8 § 1(61)(e), modified.

**Notes**

Original legislation combined criminal and civil penalties in one section. The Code Commission divided the legislation into the current sections 705, 706 and 707 for clarity. Thus, the term “section” refers to sections 705, 706 and 707.

**§ 707. Civil penalties.**

The Attorney General may institute a civil action to enforce this chapter. In addition, any person residing in the Republic may bring a civil action to enforce this chapter. If a judgment is entered against the defendant in an action brought by a resident of the Republic, the plaintiff shall receive fifty percent (50%) of the amount recovered, and shall be entitled to recover from the defendant the plaintiff’s 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 sixty (60) days after receipt of the written request, the resident may thereafter bring a civil action pursuant to this section.

**Source**

RPPL 5-7 § 1(61)(e) as amended by RPPL 5-8 § 1(61)(e), modified.

**Notes**

Original legislation combined criminal and civil penalties in one section. The Code Commission divided the legislation into the current sections 705, 706 and 707 for clarity. Thus, the term “section” refers to sections 705, 706 and 707.

**§ 708. Boats purchased with grant funds.**

If a boat was purchased with grant funds and the terms of the grant restrict the use of the boat to the receiving entity or otherwise restricts the use of the boat, that boat shall nevertheless be transferred to the boat pool; provided, that the grant restrictions shall still be applicable to that boat.

**Source**

RPPL 5-7 § 61(f).

**Notes**

Original legislation combined criminal and civil penalties in one section. The Code Commission divided the legislation into the current sections 705, 706 and 707 for clarity. Thus, the term “section” refers to sections 705, 706 and 707. This section was formerly § 705 and became section 708 to conform with Code format.

**§ 709. Unofficial use of government boats prohibited.**

No boat owned by the national government, a state government, or any of the subdivisions or agencies of the national or a state government may be used for recreational activities, picnicking, or Palauan customary functions. Every person who violates this section shall be subject to a civil fine of ten thousand dollars (\$10,000).

**Source**

RPPL 6-37 § 34, modified.

**Notes**

This section was formerly § 708 and became section 709 to conform with Code format.

**Commission Comment**

This section was codified as § 709 by the Code Commission because of the subject matter addressed. RPPL 6-37 § 34 was not designated as an amendment to RPPL 5-7, 5-8, or 5-15 which were the laws that were codified in this chapter at the time it was passed.



**Chapter 8**  
**National Petroleum Revenue Management and Sharing Act**

**Subchapter I**  
**Introduction**

- § 801. Name and Constitutional recognition.
- § 802. Application and paramountcy.
- § 803. Interpretation and definitions.

**§ 801. Name and Constitutional recognition.**

(a) This chapter shall be formally known as “the National Petroleum Revenue Management and Sharing Act” or by its short name “the Petroleum Revenue Act.”

(b) This chapter recognizes the right of the Olbiil Era Kelulau to levy and collect taxes, duties and excises, which shall be uniformly applied throughout the nation, and to implement policies for the promotion of the national economy and the social welfare of the citizens. This chapter further recognizes the rights of:

(1) the National Government to all revenue derived from the exploitation of Petroleum located beyond the areas owned by a State; and

(2) a State Government to revenues derived from the exploitation of Petroleum located in areas owned by such State.

**Source**

RPPL 8-36 Chapter 1 § 3, modified.

**Notes**

Numbering section in RPPL 8-36 are re-lettered to comply with the code format. In this chapter the word “Act” in reference to the “Petroleum Revenue Act” is changed to “chapter” to conform with the standard format used in the PNCA.

RPPL 8-36 Section 1 reads: Legislative findings.

(1) The Eighth Olbiil Era Kelulau hereby finds and recognizes the following:

(a) In order to carry out the responsibilities vested in the National Government by Article VI of the Constitution, to “...take positive action to attain these national objectives and implement these national policies: conservation of a beautiful, healthful and resourceful natural environment; promotion of the national economy; protection of the safety and security of persons and property; promotion of the health and social welfare of the citizens...”, it is imperative that it enact a comprehensive petroleum revenue

management law prescribing transparent and efficient procedures and manners by which certain revenue derived from the exploitation of Petroleum is to be paid, equitably shared between state governments and national government, and prudently saved for the benefit of current and future generations alike; and

(b) “Each state shall be entitled to revenues derived from the exploration and exploitation of all living and non-living resources, except highly migratory fish, and fines collected for violation of any law within the marine area extending from the land to twelve (12) nautical miles seaward from the traditional baselines” (Constitution, Article XII, Section 6 (a)); and

(c) The Olbiil Era Kelulau shall have the power to “to levy and collect taxes, duties and excises, which shall be uniformly applied throughout the nation” (Constitution, Article IX, Section 5(1)); and

(d) “The National Government shall be entitled to all revenues derived from the exploration and exploitation of all living and non-living resources, except highly migratory fish, and fines collected for violation of any law beyond the areas owned by the state” (Constitution, Article XII, Section 6 (b)); and

(e) “Subject to the approval of the Olbiil Era Kelulau, the state legislatures shall have the power to borrow money to finance public programs or to settle public debt” (Constitution, Article XI, Section 4); and

(f) “There shall be a National Treasury and a state treasury for each of the states. All revenues derived from taxes or other sources shall be deposited in the appropriate treasury. No funds shall be withdrawn from any treasury except by law.” (Constitution, Article XII, Section 1); and

(g) “The President shall submit an annual unified national budget to the Olbiil Era Kelulau for consideration and approval..... no appropriation bill may be enacted by the Olbiil Era Kelulau until a bill appropriating money for the budget has been enacted.” (Constitution, Article XII, Section 3(a)).

RPPL 8-36 Section 2 reads. Intent and Purpose. It shall be the intent and purpose of this Act to establish a petroleum revenue management and sharing law, incorporating international guidelines and practices in the field, that will promote the prudent management of Petroleum Revenue in a transparent and fiscally sustainable manner, by reducing the impact on the economy of volatile and uncertain petroleum revenues, promoting the equitable sharing of the benefits derived from the exploitation of Petroleum, and accumulating savings to support economic development in preparation for the time when Petroleum will be exhausted.

## § 802. Application and paramourty.

(a) This chapter applies to the payment, management, use and oversight of Petroleum Revenue derived from Petroleum Operations within the Territory.

(b) Where there is any conflict between the provisions of this chapter and:

(1) any Applicable Law; or

(2) any terms or conditions contained in any lease, license or other arrangement, on the collection, use and management of petroleum revenue, the provisions of this chapter shall prevail.

### Source

RPPL 8-36 Chapter 1 § 4, modified.

**§ 803. Interpretation and definitions.**

(a) All references to this chapter and Applicable Law hereunder, shall include any amendment, variation, modification or replacement as may be made to same from time to time.

(b) In this chapter the following definitions shall apply:

(1) “Act” means this Petroleum Revenue Act enacted by the Olbiil Era Kelulau, together with the regulations hereunder.

(2) “Applicable Law” means this Act, together with any act, regulation, by-law, code, rule or enactment lawfully enacted and promulgated by a Government, and any international convention or treaty to which a Government is a signatory, having application to any matter which may be incidental to a matter dealt with pursuant to this chapter.

(3) “Approved Bank” means any foreign commercial bank, or its branches or agencies, in a foreign location, which is rated Aa3 or higher by the Moody’s rating agency or rated AA– or higher by Standard & Poor’s rating agency.

(4) “Approved Foreign Government” means the national government of any foreign country, which is rated Aa3 or higher by the Moody’s rating agency or rated AA– or higher by Standard & Poor’s rating agency.

(5) “Approved Multilateral Organization” means any reputable international organization whose membership comprises governments and other international organizations, which is rated Aa3 or higher by the Moody’s rating agency or rated AA– or higher by Standard & Poor’s rating agency.

(6) “Budgeted Expenditure” means expenditure included in the National Budget or a State Budget as approved by the Olbiil Era Kelulau and the State legislature for a financial year.

(7) “Budgeted Revenue” means revenue included in the National Budget or State Budget approved by the Olbiil Era Kelulau and the State legislature for a financial year.

(8) “Compact Trust Fund” means the trust fund established pursuant to the

Compact of Free Association between the United States of America and the Republic.

(9) “Code of Ethics” means the Code of Ethics Act, Chapter 6 of Title 33 of the Palau National Code.

(10) “Constitution” means the Constitution of the Republic of Palau ratified on July 9, 1980 and entered into force on January 1, 1981, as amended in the 1993 and the 2008 constitutional referenda.

(11) “Consumer Price Index” means the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor (United States Department of Labor Statistics) or such other successor agency.

(12) “Custody Bank” means the institution at which the Petroleum Revenue Accounts are opened pursuant to this chapter.

(13) “Distribution Account” means the account established pursuant to subchapter II.

(14) “Dollars” means United States Dollars.

(15) “Government” means the National Government or the State Government as applicable and “Governments” means both of them.

(16) “Gross Petroleum Revenue” means as defined in subchapter II, section 812.

(17) “International Financial Reporting Standards” means the accounting standards issued by the International Accounting Standards Board, and shall include the International Accounting Standards issued by the International Accounting Standards Committee.

(18) “Heritage Fund” means the Heritage Fund of Palau established pursuant to subchapter VII.

(19) “Management Agreement” means the agreement between the Government and the Custody Bank for the custody, management and operation of the Petroleum Revenue Accounts as set forth in subchapter X.

(20) “Ministry” means the Ministry of Finance, or any successor public authority from time to time designated by the National Government to administer all or part of the activities subject to this chapter.

(21) “Minister” means the Minister of Finance, or any successor public official from time to time designated by the National Government to administer this chapter.

(22) “MPII” means the Ministry of Public Infrastructure and Industries, or any successor public authority from time to time designated by the National Government to administer the Petroleum Act.

(23) “National Budget” means the estimate of revenues and expenditures of the National Government comprised within the Unified Budget submitted to the Olbiil Era Kelulau in each financial year for the following financial year as provided for in the Constitution.

(24) “National Government” means the government of the Republic of Palau, acting through its appropriate representatives, officials or ministers, in accordance with, and pursuant to, the Constitution.

(25) “National Petroleum Funds” means the Petroleum Revenue Stabilization Fund and the Petroleum Revenue Heritage Fund.

(26) “National Treasurer” means the Director of the Bureau of National Treasury, or any successor public official from time to time designated by the National Government to perform similar functions and activities

(27) “National Treasury” means the Bureau of National Treasury within the Ministry of Finance, or such successor public authority as may be designated by the National Government to perform similar functions and activities.

(28) “National Treasury Account” means the general account of the National Treasury.

(29) “Net Petroleum Revenue” means Petroleum Revenues less any amount to which a State is entitled pursuant to subchapter III, section 821.

(30) “Person” includes any individual, firm, partnership, joint venture,

corporation, body politic, government agency, estate, trust, or other association, however organized.

(31) “Petroleum” means crude oil, natural gas, and any other naturally occurring hydrocarbon or mixture of such hydrocarbons, whether in a gaseous, liquid or solid state.

(32) “Petroleum Act” means the Petroleum Act, enacted by the Olbiil Era Kelulau, together with the regulations hereunder.

(33) “Petroleum Funds” means the Petroleum Revenue Stabilization Fund, the Petroleum Revenue Heritage Fund, and the State Saving Fund.

(34) “Petroleum Revenue” means Gross Petroleum Revenues less any amount debited to the Distribution Account pursuant to subchapter II, section 813(a)(1).

(35) “Petroleum Revenue Accounts” means the Distribution Account, the Stabilization Fund, the Heritage Fund, and any State Saving Fund.

(36) “Petroleum Operations” means the exploration, development, extraction, production, field separation, transportation, storage, sale or other disposal of Petroleum; but does not include any transportation or other operations beyond the point of export or, in the case of petroleum which is processed within the Territory, beyond the point of entry into a refinery or liquefaction or natural gas treatment plant.

(37) “Production” means the activities involved in the extraction of Petroleum as defined in Applicable Law.

(38) “Public Official” means an Employee, Former Employee or Public Official, as defined pursuant to the Code of Ethics Act, 33 PNC § 601(o).

(39) “Republic” means the Republic of Palau.

(40) “Saving Ratio” means as defined in subchapter V, section 841.

(41) “Stabilization Fund” means the Petroleum Revenue Stabilization Fund of Palau established pursuant to subchapter VI.

(42) “State Budget” means the estimate of revenues and expenditures of a State prepared by the State Government and submitted to the State legislature in each financial year for the following financial year as provided for [in] the Constitution, Article XII, Section 3(b).

(43) “State Government” means the government of each State of the Republic, acting through its appropriate representatives, officials or ministers, in accordance with, and pursuant to, the Constitution.

(44) “State Saving Fund” means a saving fund opened at Custody Bank in accordance with subchapter III, section 822.

(45) “State Territory” means the land territory and internal waters within a State and its territorial seas extending to twelve (12) nautical miles from the lower water mark as set forth in the Constitution.

(46) “State Treasurer” means the treasurer, or any successor public official from time to time designated by the State Government to perform similar functions and activities.

(47) “State Treasury” means the treasury and finance department, or such other public authority as may be designated by the State Government to perform similar functions and activities.

(48) “State Treasury Account” means the general account of a State Treasury;

(49) “Sustainable Benchmark Revenue” means the estimated sustainable income determined in accordance with subchapter IV, section 831(e).

(50) “Territory” means “all terrestrial and oceanic areas over which the Republic of Palau has sovereignty and jurisdiction which”...consist of all the islands, atolls, reefs, and shoals that have traditionally been in the Palauan archipelago, including Ngeruangel Reef and Kayangel Island in the north and Hatohobei Island (Tobi Island) and Hochaihie (Helen’s Reef) in the south and all land areas adjacent and in between, and also consist of the internal waters and archipelagic waters within these land areas, the territorial waters around these land areas and the airspace above these land and water areas extending to a two hundred (200) nautical miles exclusive economic zone, unless otherwise delimited by bilateral agreements or as may be limited or extended under international law.” (Constitution, Article I

(1)(a)), and shall include the Republic of Palau's continental shelf areas as determined by the United Nations Commission on the Limits of Continental Shelf (UNCLOS) as set forth in Chapter 1, Section 1(a) and Article I, Section 2(a) of the Constitution, and any modification thereof.

(51) "Trust Agreement" means the agreement between the National Government and a State Government for the custody and management of the State Saving Fund.

(52) "Unified Budget" means the estimate of revenues and expenditures of the Republic prepared by the National Government and submitted to the Olbiil Era Kelulau in each financial year for the following financial year as provided for in the Constitution, Article XII, Section 3(a).

**Source**

RPPL 8-36 Chapter 1 § 5, modified.

**Notes**

The bracketed [in] in subsection (b)(42) above does not appear in the original legislation.

**Subchapter II  
Distribution Account**

§ 811. Establishment of the Distribution Account.

§ 812. Deposits into the Distribution Account.

§ 813. Withdrawals from the Distribution Account.

§ 814. Fees and charges.

**§ 811. Establishment of the Distribution Account.**

(a) There is hereby established a Distribution Account, within the national treasury, as a designated account at a Custody Bank to be selected pursuant to this chapter, which shall receive and disburse all Gross Petroleum Revenue due to the Republic and derived from Petroleum Operations in accordance with the provisions of this chapter.

(b) Petroleum Revenue credited to the Distribution Account shall be transferred to the National Treasury, the State Treasuries, and the Petroleum Funds in accordance with this chapter.



(c) Except as provided for in this subchapter II, no other use of Gross Petroleum Revenue credited to the Distribution Account shall be permitted.

**Source**

RPPL 8-36 Chapter 2 § 6, modified.

**§ 812. Deposits into the Distribution Account.**

(a) The following Gross Petroleum Revenue shall be credited to the Distribution Account:

- (1) any cash bonus, rental fee, royalty, petroleum rent tax, and corporate income tax payment and other payment of similar nature made by a person in respect of Petroleum Operations pursuant to the Petroleum Act;
- (2) any amount received by the Government from the sale of Petroleum taken in kind pursuant to the Petroleum Act, net of commissions and brokerage fees if any;
- (3) in the event that the National Government, directly or through a public agency, publicly owned corporation, or similar entity as may be designated by the National Government in accordance with the Petroleum Act, participates in, or carries out, Petroleum Operations within the Territory or otherwise:
  - (A) any amount received from such direct participation; and
  - (B) any amount paid by such public agency, publicly owned corporation or entity as dividend, cash bonus, rental fee, royalty, petroleum rent tax, corporate income tax, and other payment of similar nature.
- (4) any amount received by the Government relating, directly or indirectly, to Petroleum Operations not covered in section 812(a)(1) to (3), except for decommissioning funds, personal income tax, social [security] contributions, customs duties, penalties, fines, administrative and service fees, and other payments of similar nature provided for in Applicable Law; and
- (5) any transfer from the Heritage Fund in accordance with subchapter VII, section 863(b).

(b) All payments into the Distribution Account shall be made by direct transfer by the

Persons liable to make such payments.

**Source**

RPPL 8-36 Chapter 2 § 7, modified.

**§ 813. Withdrawals from the Distribution Account.**

(a) Withdrawals from the Distribution Account may be made for the following purposes:

- (1) any payment listed in subchapter II, section 812(a) received by a Government in excess of a Person's liability to pay; and
- (2) any amount to be transferred to the Petroleum Funds and to the accounts of the National Treasury and State Treasuries in accordance with this chapter.

(b) To the extent practicable, the Management Agreement shall provide for the automatic, formula-based execution by the Custody Bank of the transfers from the Distribution Account to the National Treasury Account, the State Treasury Accounts, and the Petroleum Funds as set forth in subchapter X, section 893.

**Source**

RPPL 8-36 Chapter 2 § 8, modified.

**§ 814. Fees and Charges.**

Reasonable and customary fees and charges for the establishment, holding and management of the Distribution Account by the Custody Bank set forth in the Management Agreement, shall be charged to the National Treasury Account. The Minister shall include such charges and fees as current expenditure for the National Budget in relevant financial year.

**Source**

RPPL 8-36 Chapter 2 § 9, modified.

**Subchapter III**

**Special Rights**

§ 821. Special Rights of the States.

§ 822. State Saving Fund.

**§ 821. Special Rights of the States.**

(a) A share of Petroleum Revenue credited to the Distribution Account in a financial year and arising from Petroleum Operations carried out in a State Territory, shall be transferred to the State Treasury Account and/or subject to subchapter III, section 822, the State Saving Fund of such State, in accordance with the Management Agreement, as follows:

(1) Petroleum Revenue paid pursuant to any lease, license, agreement or other arrangements issued or entered into by the State following the enactment of this chapter:

(A) 100 percent of any rental fee;

(B) 50 percent of any cash bonus;

(C) fifteen percent (15%) of the Petroleum Revenue remaining after deducting the amounts set forth in paragraphs (A) and (B) above; and

(2) Petroleum Revenue paid pursuant to any lease, license, agreement or other arrangements issued or entered into by the State prior to the enactment of this chapter:

(A) 100 percent of any royalty; and

(B) 100 percent of any rental fee.

(b) To the extent practicable, the Management Agreement shall provide for the automatic, formula-based execution by the Custody Bank of the transfers from the Distribution Account to the State Treasuries Accounts and the State Saving Funds as set forth in subchapter X, section 891.

(c) No appropriation from the Olbiil Era Kelulau or a state legislature shall be required to effect the transfers referred in such chapter III, section 821(a).

**Source**

RPPL 8-36 Chapter 3 § 10, modified.

**§ 822. State Saving Fund.**

(a) Subject to subchapter III, section 822(c), following the discovery of commercial quantities of Petroleum in a State Territory but before commencement of Production from any block within the State Territory, the Minister shall instruct the Custody Bank to open a State Saving Fund which shall be held in trust by the National Government for such State.

(b) The objective of the State Saving Fund, whether permanent saving, short-term stabilization, long-term saving, or a combination of the foregoing, and any special rule applicable to its management, shall be defined in a Trust Agreement to be entered into between the National Government and the State Government prior to the opening of the State Saving Fund, which shall include:

(1) the right of the State Government to dispose of any monies standing to the balance of the State Saving Fund;

(2) the manner of proof, deadlines, authorization and certifications of transactions; and

(3) that all gains, interest, losses, customary fees and other charges associated with the establishment, holding, and management of the State Saving Fund shall be credited or debited to the same as they are earned or incurred.

(c) Prior to the commencement of commercial Production from any block within a State Territory, or following the establishment of a State Saving Fund pursuant to subchapter III, section 822(a), the State Government may, by notice in writing to the Minister:

(1) elect to administer all of its entitlement under subchapter III, section 821(a) directly, in which case all monies to which the State is entitled under subchapter III, section 821(a) shall be transferred to the State Treasury Account; or

(2) request that a share of its entitlement under subchapter III, section 821(a) be

transferred to the State Treasury Account, and any residual amount be credited to the State Saving Account to be managed in accordance with this chapter and the Trust Agreement.

**Source**

RPPL 8-36 Chapter 3 § 11, modified.

**Subchapter IV  
Annual Planned Withdrawals**

§ 831. Determination of the Annual Planned Withdrawals.

§ 832. Transfers of the National Planned Withdrawals and State Planned Withdrawals to the Treasuries.

**§ 831. Determination of the Annual Planned Withdrawals.**

(a) The Unified Budget for a financial year shall include an Annual Planned Withdrawal, being the amount to be withdrawn from the Distribution Account, in accordance with subchapter IV, section 831, to finance public expenditure included in the National Budget and State Budgets for the financial year. No transfer shall be made from the Distribution Account with respect to the Annual Planned Withdrawal unless such budgets have been approved by the Olbiil Era Kelulau and the relevant State legislatures.

(b) The Annual Planned Withdrawal shall be the lower of:

(1) the sum of the National Planned Withdrawal and the State Planned Withdrawals determined in accordance with subchapter IV, section 831(c) to (e) below; and

(2) the Sustainable Benchmark Revenue as determined in accordance with subchapter IV, section 831(e).

(c) The National Planned Withdrawal for a financial year shall be the sum of:

(1) all Budgeted Expenditure for the financial year, including block grants, if any, and unpaid Budgeted Expenditure carried forward from the previous financial year; less

(2) all Budgeted Revenue for the financial year that is not Petroleum Revenue,

including all transfers from the Compact Trust Fund, grants and interests earned on monies deposited or invested in financial assets held by the National Government, other than the National Petroleum Funds.

(d) A State Planned Withdrawal for a financial year shall be the sum of:

(1) all Budgeted Expenditure for the financial year, and unpaid Budgeted Expenditure carried forward from the previous financial year; less

(2) all Budgeted Revenue for the financial year that is not Petroleum Revenue, including block grants and other transfers from the National Budget, grants, technical assistance, and interest earned on monies deposited or invested in financial assets held by the State Government, including any State Saving Fund.

(e) The Sustainable Benchmark Revenue for a financial year is the maximum amount that can be appropriated from the Petroleum Revenue Accounts in the financial year and leave sufficient resources in the Petroleum Revenue Accounts for an amount of equal real value to be appropriated in all later financial years as determined in accordance with the formula set forth in subsection (a) below.

(1) The estimated sustainable income for a financial year shall be calculated according to the following formula:

$$E_t = r \times V + \sum_{t=0}^n \frac{R_t}{(1+i)^t}$$

where:

(A)  $E_t$  is the estimated Sustainable Benchmark Revenue for the financial year.

(B)  $r$  is the average long-term nominal rate of return, being the expected annual rate of return on the National Petroleum Funds over the period of calculation of the Sustainable Benchmark Revenue, calculated on the basis of a portfolio composed of assets proportionate to the assets held in the National Petroleum Funds at the date of the calculation, and adjusted for inflation using the variation rates of the official price indexes of the currencies in which the National Petroleum Funds asset portfolios are invested. The long-term real rate of return shall not exceed five percent (5%).

(C)  $V$  is the estimated closing balance of the National Petroleum Funds at the end of the previous financial year.

(D)  $R_0 .. R_t$  are the budget projections for expected annual Net Petroleum Revenue for the financial year ( $R_0$ ) and future financial years ( $R_1$  to  $R_t$ ) as determined in accordance with this Act.

(E)  $I$  is the discount rate used to determine the present value of future Net Petroleum Revenues, which shall always be no less than two percentage points higher than the long-term real rate of return.

(F)  $n$  is the number of years until no further deposits of Net Petroleum Revenue are expected to be made into the Petroleum Revenue Accounts.

(2) all assumptions upon which the calculations of the Sustainable Benchmark Revenue are made shall be prudent and reflect internationally accepted financial principles and methods. All such assumptions, including any changes in subsequent calculations, shall be clearly identified and documented in the reports to be submitted to the Olbiil Era Kelulau pursuant to this chapter.

(f) Withdrawals from the Distribution Account for the purposes of refund of tax in the event of overpayment shall not be considered as part of the appropriation approved under subchapter IV, section 831(a).

**Source**

RPPL 8-36 Chapter 4 § 12, modified.

**§ 832. Transfers of the National Planned Withdrawals and State Planned Withdrawals to the Treasuries.**

(a) The total amount transferred from the Distribution Account and from the Stabilization Fund in a financial year to:

(1) the National Treasury Account shall not exceed the amount of the National Planned Withdrawal as approved by the Olbiil Era Kelulau for the financial year; and

(2) any State Treasury Account shall not exceed the State Planned Withdrawal for such State as approved by Olbiil Era Kelulau for the financial year.

(b) No budget approval shall be granted by the Olbiil Era Kelulau and no transfer shall be made from the Distribution Account to the National Treasury Account or the State Treasury Accounts in a financial year unless the Minister has first provided the Olbiil Era Kelulau with:

(1) a report detailing the calculation of the Sustainable Benchmark Revenue for the financial year for which the transfer is proposed to be made and the Sustainable Benchmark Revenue for the preceding financial year, which shall be prepared or certified by a reputable independent auditor; and

(2) where the proposed Annual Planned Transfer for a financial year exceeds the Sustainable Benchmark Revenue for the financial year:

(A) a report, prepared or certified by such auditor, estimating the amount by which the Sustainable Benchmark Revenue for subsequent financial years will be reduced as a result of the transfer from the Distribution Account of an amount in excess of the estimated Sustainable Benchmark Revenue for the financial year in which the transfer is proposed to be made; and

(B) a detailed explanation of the impact on the economic development and fiscal sustainability of transferring Petroleum Revenue in excess of the estimated Sustainable Benchmark Revenue.

(c) The National Treasurer shall provide written notification, countersigned by the Minister, to the Custody Bank of the amounts approved by the Olbiil Era Kelulau in respect of the National Planned Withdrawal and State Planned Withdrawals for the financial year in accordance with the Management Agreement, including any change thereof resulting from amendments to the Budget Law during the financial year.

(d) During the course of a financial year, any Petroleum Revenue standing to the balance of the Distribution Account after all transfers to the State Treasury Accounts, the State Saving Funds (if any), the Stabilization Fund and the Heritage Fund pursuant to subchapters III, VI and VII have been made, shall be transferred as follows:

(1) a share corresponding to the product of such balance and the ratio between each State Planned Withdrawal and the Annual Planned Withdrawal, to the State Treasury Accounts of the relevant State; and



(2) any balance remaining on the Distribution Account after all transfers pursuant to subchapter IV, section 832(d)(1) have been made, to the National Treasury Account.

(e) To the extent practicable, the Management Agreement shall provide for the automatic, formula-based execution by the Custody Bank of the transfers from the Distribution Account to the National Treasury Account and the State Treasuries Accounts referred to in subchapter IV, section 832(d)(1) and (2).

**Source**

RPPL 8-36 Chapter 4 § 13, modified.

**Subchapter V  
Saving Ratio**

§ 841. Determination of the Saving Ratio.

**§ 841. Determination of the Saving Ratio.**

The Saving Ratio to be used in determining the share of Net Petroleum Revenue to be transferred to the National Petroleum Funds pursuant to this chapter shall be calculated according to the following formula:

$$SavingRatio = \frac{eNPR - APW}{eNPR}$$

where:

(a) *eNPR* is the Petroleum Revenue for a financial year as estimated by the Ministry in accordance with subchapter VIII less the amount corresponding to the Special Rights of the States set forth in subchapter III, section 821; and

(b) *APW* is the Annual Planned Withdrawal authorized by the Olbiil Era Kelulau in the financial year.

**Source**

RPPL 8-36 Chapter 5 § 14, modified.

**Subchapter VI**  
**Petroleum Revenue Stabilization Fund of Palau**

- § 851. Establishment of the Stabilization Fund.
- § 852. Deposits into the Stabilization Fund.
- § 853. Withdrawals from the Stabilization Fund.
- § 854. Exceptional Withdrawals.
- § 855. Gains, Interests, Losses, and Charges.

**§ 851. Establishment of the Stabilization Fund.**

(a) Following the discovery of commercial quantities of Petroleum in the Territory but no later than the commencement of Production from any block within the Territory, the Minister shall establish, at a Custody Bank to be selected pursuant to this chapter, the Petroleum Revenue Stabilization Fund of Palau, to be known as the “Stabilization Fund”.

(b) The objective of the Stabilization Fund shall be to mitigate the impact on or sustain public expenditure capacity during periods of unanticipated shortfalls in Petroleum Revenue whether caused by a fall in Petroleum prices or through adverse changes in production levels.

**Source**

RPPL 8-36 Chapter 6 § 15, modified.

**§ 852. Deposits into the Stabilization Fund.**

(a) Subject to subchapter VI, section 852(b), all transfers made to the Stabilization Fund from the Distribution Account in a financial year shall be equal to fifty percent (50%) of the value obtained by multiplying the Saving Ratio by any Net Petroleum Revenue credited to the Distribution Account during the fiscal year.

(b) As soon as the sum of all transfers of the Net Petroleum Revenue made from the Distribution Account to the National Treasury Account and the State Treasury Accounts in a financial year equals the amount of the Annual Planned Withdrawal authorized by the Olbiil Era Kelulau for the financial year, fifty percent (50%) of the value of all subsequent transfers of Net Petroleum Revenue out of the Distribution Account shall be made to the Stabilization Fund.

(c) The share of the savings earmarked for stabilization purposes under subchapter VI, section 852(a) and (b), shall be reviewed every three (3) years by the Minister, and any recommended change shall be approved by the Olbiil Era Kelulau, provided that such share shall not exceed seventy percent (70%).

(d) The amount accumulated in the Stabilization Fund shall not exceed a predetermined threshold as recommended by the Minister and approved by Olbiil Era Kelulau and such threshold shall be reviewed from time to time to reflect macroeconomic conditions. Once the predetermined threshold is attained, subsequent transfers to the Stabilization Fund pursuant to subchapter VI, section 852(a) and (b) shall be limited to amounts necessary to maintain the target threshold, and any excess amount shall be transferred to the Heritage Fund.

(e) To the extent practicable, the Management Agreement shall provide for the automatic, formula-based execution by the Custody Bank of the transfers from the Distribution Account to the Stabilization Fund as set forth in subchapter X, section 893.

(f) At the end of a financial year:

(1) the National Treasurer shall ensure that any amount transferred to the National Treasury Account from the Distribution Account and the Stabilization Fund in the financial year that remains unspent is credited to the Stabilization Fund; and

(2) the State Treasurers shall ensure that any amount transferred to their State Treasury Accounts from the Distribution Account and the Stabilization Fund that remains unspent is credited to the Stabilization Fund.

(g) All amounts credited to the Stabilization Fund pursuant to subchapter VI, section 852(f) shall become part of the general pool of revenues to be used for stabilization purposes in accordance with this chapter.

(h) At the beginning of a financial year interest earned on the investment portfolio of the Heritage Fund may be credited to the Stabilization Fund in accordance with subchapter VII.

**Source**

RPPL 8-36 Chapter 6 § 16, modified.

**§ 853. Withdrawals from the Stabilization Fund.**

(a) Subject to subchapter IV, section 832(a), monies standing to the balance of the Stabilization Fund at any time during a financial year may be transferred to the National Treasury Account and the State Treasury Accounts to respond to short-term treasury management needs. Instructions to the Custody Bank in respect of such transfers shall be signed by the National Treasurer, and countersigned by the Minister or the State Treasurer as appropriate.

(b) Subject to subchapter IV, section 832(c), monies standing to the balance of the Stabilization Fund at any time during a financial year may be transferred to the National Treasury Account and the State Treasury Accounts if, due to a fall in Petroleum prices or production levels, the sum of all transfers of Net Petroleum Revenue to be made during a financial year to the National Treasury Account and to the State Treasury Accounts are expected by the Minister to be lower than the National Planned Withdrawal and the State Planned Withdrawals authorized by the Olbiil Era Kelulau for the financial year.

(c) Notwithstanding the provisions of subchapter VI, section 853(a) and (b), the sum of all withdrawals from the Stabilization Fund made in a financial year pursuant to subchapter VI, section 853 shall in no event be more than forty percent (40%) of the balance standing to the credit of the Stabilization Fund at the beginning of the financial year.

**Source**

RPPL 8-36 Chapter 6 § 17, modified.

**§ 854. Exceptional withdrawals.**

(a) In, and only in, exceptional circumstances, may an amount additional to the National Planned Withdrawal be transferred from the Stabilization Fund to the National Treasury Account in a financial year.

(b) For the purposes of subchapter VI, section 854(a), exceptional circumstances means:

- (1) devastation caused by man-made environmental disasters, including any accidental spill of Petroleum;
- (2) natural disasters, including hurricanes, earthquakes, famines, and droughts;

(3) devastation caused by civil turmoil; and

(4) acts of war which, in the opinion of the National Government, affect a significant proportion of the population or require urgent remedial actions, and for which additional financial support is required, inter alia, through the transfer and application of funds from the Stabilization Fund.

(c) The additional amount referred to in subchapter VI, section 854(a):

(1) may only be transferred pursuant to an Act of the Olbiil Era Kelulau authorizing the transfer of such additional amount for that financial year in accordance with Applicable Law; and

(2) shall in no event exceed eighty percent (80%) of the monies standing to the balance of the Stabilization Fund at that time of such authorization.

(d) The Bill mentioned in subsection (c) above shall not be voted upon on its final reading unless fourteen (14) days have elapsed since the Minister has provided the Olbiil Era Kelulau with a report containing a fully reasoned explanation of the need for the transfer of the additional amount, together with a detailed plan of expenditure. The Olbiil Era Kelulau shall debate the report of the Minister as a matter of urgency and determine the appropriation of the additional amount.

(e) Upon receipt of an original written instruction of the Minister, the National Treasurer may instruct the Custody Bank, in the manner provided in the Management Agreement, immediately to transfer an amount other than the National Planned Withdrawal to the National Treasury Account. The National Treasurer's written instruction to the Custody Bank shall be countersigned by the Minister and the President of the Republic.

**Source**

RPPL 8-36 Chapter 6 § 18, modified.

**§ 855. Gains, interests, losses, and charges.**

All gains, interest, losses, customary and reasonable commissions, fees and other charges associated with the management of the Stabilization Fund and of its portfolio of assets shall be credited or debited to the same as they are earned or incurred.

**Source**

RPPL 8-36 Chapter 6 § 19, modified.

**Subchapter VII**  
**Petroleum Heritage Fund of Palau**

- § 861. Establishment of the Heritage Fund.
- § 862. Deposits into the Heritage Fund.
- § 863. Withdrawals from the Heritage Fund.
- § 864. Gains, interests, losses, and charges

**§ 861. Establishment of the Heritage Fund.**

(a) Following the discovery of commercial quantities of petroleum in the territory but no later than the commencement of production from any block within the territory, the Minister shall establish, at a Custody Bank to be selected pursuant to this chapter, the Petroleum Heritage Fund of Palau, to be known as “Heritage Fund”.

(b) The object of the Heritage Fund is to provide a permanent endowment to support economic development and the welfare of future generations long after the petroleum has been depleted.

**Source**

RPPL 8-36 Chapter 7 § 20, modified.

**§ 862. Deposits into the Heritage Fund.**

(a) All transfers made to the Heritage Fund from the Distribution Account in a financial year shall be equal to fifty percent (50%) of the value obtained by multiplying the Saving Ratio by any Net Petroleum Revenue credited to the Distribution Account during the fiscal year.

(b) In the event that the share of savings earmarked for stabilization purposes is amended pursuant to subchapter VI, section 852(c), the share of savings earmarked for the Heritage Fund shall be adjusted accordingly.

(c) One financial year after the end of Production from any area in the Territory, the balance standing to the credit of the Stabilization Fund shall be transferred to the Heritage Fund, and the Stabilization Fund shall be closed.

(d) To the extent practicable, the Management Agreement shall provide for the

automatic, formula-based execution by the Custody Bank of the transfers from the Distribution Account to the Stabilization Fund as set forth in subchapter X, section 893.

**Source**

RPPL 8-36 Chapter 7 § 21, modified.

**§ 863. Withdrawals from the Heritage Fund.**

(a) There shall be no withdrawal of the principal of the Heritage Fund, which shall be used only for those income-producing investments specifically designated by this chapter as eligible for permanent fund investments.

(b) All income from the Heritage Fund, less:

(1) an amount sufficient to offset the effect of inflation on the principal during that financial year, as determined in accordance with subchapter VII, section 863(d); and

(2) losses, commissions, fees and other charges set forth in subchapter VII, section 863(c) shall be deposited into Stabilization Fund, to the extent permitted under subchapter VI, or the Distribution Account if the Stabilization Fund has been closed pursuant to subchapter VII, section 862(c).

(c) The National Treasurer shall compute the income of the Heritage Fund annually as of the last day of the financial year in accordance with generally accepted accounting principles, excluding any unrealized gains or losses.

(d) The National Treasurer shall calculate the amount to transfer to the principal under subchapter VII, section 863(b) by:

(1) computing the average of the monthly Consumer Price Index for each of the two previous calendar years;

(2) computing the percentage change between the first and second calendar year average; and

(3) applying that rate to the value of the principal of the Heritage Fund on the last day of the previous financial year.

**Source**

RPPL 8-36 Chapter 7 § 22, modified.

**§ 864. Gains, interests, losses, and charges.**

Subject to subchapter VII, section 863(c), all gains, interest, losses, customary and reasonable commissions, fees and other charges associated with the management of the Heritage Fund and the investment of its portfolio of assets shall be credited or debited to the same as they are earned or incurred.

**Source**

RPPL 8-36 Chapter 7 § 23, modified.

**Subchapter VIII  
Estimated Petroleum Revenue**

§ 871. Calculation of estimated Petroleum Revenue.

**§ 871. Calculation of estimated Petroleum Revenue.**

(a) The following criteria shall be applied to estimate the value of Petroleum Revenue for the purposes of preparing the Unified Budget, National Budget, and State Budgets, and calculating the Sustainable Revenue Benchmark:

(1) The expected average price of a barrel of crude oil produced from within the Territory shall be determined with reference to the forecast price for Dated Brent FOB Sullom Voe, or other representative crude oil reference price, as published by an internationally recognized forecasting agency, adjusted by a price differential reflecting the difference in quality between the reference crude oil and the different types of crude oil produced within the Territory, and transport costs. The expected future average price for natural gas shall be the reference future average price adopted in natural gas contracts, or other suitable price marker, adjusted pursuant to the terms set forth for crude oil;

(2) The expected future sales of crude oil and natural gas shall be based solely on the anticipated production from producing fields or fields for which a development plan has been approved in accordance with Applicable Law and a final investment decision has been made by the relevant license holder, and shall



be consistent with the production estimates provided by the license holder;

(3) Estimates of operating expenditures, depreciation of capital expenditures, and other expenditure[,], the deduction of which is allowed under Applicable Law for the purpose of determining the tax liability of a taxable entity[,], shall be based on the projections contained in annual budgets and in development plans approved in accordance with Applicable Law; and

(4) All assumptions made shall be prudent and reflect internationally recognized accounting principles and practice.

(b) The estimates referred to in subchapter VIII, section 871(a) shall be jointly prepared by the Ministry and the MPIL, and shall be clearly explained in the reports to be submitted to the Olbiil Era Kelulau pursuant to this chapter.

**Source**

RPPL 8-36 § 24, modified.

**Notes**

The bracketed [,] in subsection (3) does not appear in the original legislation.

**Subchapter IX**

**Investment of the Petroleum Funds**

- § 881. The Investment Management Board.
- § 882. Composition of Investment Management Board.
- § 883. Disclosure of interest.
- § 884. Tenure of office.
- § 885. Funding.
- § 886. Permitted investments.
- § 887. Implementation of the Investment Policy and Strategy.

**§ 881. The Investment Management Board.**

(a) Prior to the opening of the Petroleum Funds, an Investment Management Board shall be established in accordance with this chapter.

(b) The Investment Management Board shall be responsible for:

- (1) defining the Investment Policy and Strategy of the Petroleum Funds in accordance with the Investment Policy set forth in [subsection (c)];
- (2) setting performance benchmarks for desired returns from, and appropriate risks of, the investments of the Petroleum Funds;
- (3) defining the investment instructions to be provided to the Custody Bank pursuant to the Management Agreement;
- (4) evaluating the performance of the Custody Bank;
- (5) selecting the Custody Bank;
- (6) establishing the minimum qualification criteria for Fund Managers, selecting Fund Managers, defining their mandate, approving the terms of their appointment, and evaluating their performance; and
- (7) defining the terms of the Management Agreement which shall, in all material respects, comply with this chapter.

(c) In defining the Investment Policy and Strategy of the Petroleum Funds, the Investment Management Board shall exercise the judgment and care that an institutional investor of ordinary prudence, discretion and intelligence would exercise in the management of large investments entrusted to it, with due regard to the safety of the principal, the optimization of income over the long-term, and the particular objectives of the Petroleum Funds, namely short-term stabilization and permanent saving.

(d) A copy of the Investment Policy and Strategy, in a form readily understandable by the general public, shall be published by the Minister after the approval of the Unified Budget by the Olbiil Era Kelulau.

(e) The Investment Management Board, its members, staff, agents and delegates, shall not be liable for anything done or omitted to be done in good faith and without negligence in the performance of their duties.

**Source**

RPPL 8-36 Chapter 9 § 25, modified.

**Notes**

In subsection (b)(1), the bracketed [subsection (c)] replaced the wording "Schedule 3" in the original legislation per Code Commission.

**§ 882. Composition of Investment Management Board.**

- (a) The members of the Investment Management Board shall be:
- (1) the Minister (who shall be the chairperson);
  - (2) the National Treasurer (who shall be the chairperson in the absence of the Minister of Finance);
  - (3) the Executive Commissioner of the Financial Institutions Commission;
  - (4) the Administrator of the Civil Service Pension Plan;
  - (5) the Administrator of the Social Security Administration; and
  - (6) two members, who may not hold any other Government office, position or employment, either elective or appointive, appointed by the other five members of the Investment Management Board from the public.
- (b) The public members of the Investment Management Board shall be appointed within one month from the constitution of the Investment Management Board, and must have recognized competence and wide experience in investment and management of large portfolios of assets, finance and financial market risk analysis.
- (c) The Minister of Finance and the National Treasurer shall appoint an alternate in writing in the event that they are unavailable for any proceedings of the Investment Management Board.
- (d) A quorum for a meeting of the Investment Management Board shall be five members and must include at least one of the public members. All decisions shall be made by the affirmative vote of a majority of the members present and voting, and if there is an equality of votes, the chairman shall have the casting vote. All such votes shall be in writing.
- (e) The Investment Management Board shall decide its own rules and procedures which shall comply with the provisions of this chapter and shall be publicly disclosed.

**Source**

RPPL 8-36 Chapter 9 § 26, modified.

**§ 883. Disclosure of interest.**

- (a) A member of the Investment Management Board who has an interest in a matter for consideration by the Board:
- (1) shall disclose the nature of that interest and such disclosure shall form part of the record of the consideration of the matter; and
  - (2) shall not participate in the deliberations of the Investment Management Board in respect of that matter.
- (b) Failure by a member of the Investment Management Board to disclose an interest in a matter before the Investment Management Board shall result in the termination of such member's appointment.
- (c) In addition to their obligations under this chapter, all members of the Investment Management Board shall be bound by the Code of Ethics and other Applicable Law for members of Government boards or other Government entities of similar nature or purpose.

**Source**

RPPL 8-36 Chapter 9 § 27, modified

**§ 884. Tenure of office.**

- (a) A public member of the Investment Management Board shall hold office for three (3) years, and may not be appointed again until four (4) years after his term expires.
- (b) A member of the Investment Management Board may at any time resign from office by notifying the Minister in writing.
- (c) A member who is absent for two (2) consecutive meetings of the Investment Management Board without sufficient cause ceases to be a member of the Investment Management Board and shall be immediately replaced in accordance with this chapter.
- (d) The Minister may remove [a] public member of the Investment Management Board from office only for cause. A removal by the Minister shall be in writing and shall state the reason for the removal. A member who is removed by the Minister may not participate in Investment Management Board business and may not be counted for purposes of establishing a quorum after the member receives written notice of removal

from the Minister.

(e) A vacancy on the Investment Management Board shall be promptly filled by appointment by the Minister. An appointee to a vacancy shall have recognized competence and wide experience in investment and management of large portfolios of assets, finance and financial market risk analysis. An appointee shall hold office for the balance of the term for which the appointee's predecessor on the Investment Management Board was appointed.

(f) A vacancy on the Investment Management Board shall not impair the authority of a quorum of the Investment Management Board to exercise all the powers and perform all the duties of the Investment Management Board.

**Source**

RPPL 8-36 Chapter 9 § 28, modified.

**Notes**

The bracketed [a] in subsection (d) read "the" in the original legislation.

**§ 885. Funding.**

(a) The Minister shall estimate the amounts reasonably necessary to meet the budget of the Investment Management Board in a financial year and shall include such estimate as current expenditure in the National Budget for the financial year.

(b) An honorarium determined by the Minister, and approved by the Olbiil Era Kelulau, shall be paid to the public members of the Investment Management Board.

(c) The Ministry shall provide the secretariat for the Investment Management Board and any other administrative support or technical staff required by the Investment Management Board for the performance of its functions.

**Source**

RPPL 8-36 Chapter 9 § 29, modified.

**§ 886. Permitted investments.**

(a) All investments of the Petroleum Funds shall comply, in all material respect, with the Investment Policy and Strategy defined by the Investment Management Board and with

the following principles:

- (1) sufficient liquidity to ensure the availability of cash from the Stabilization Fund to respond to stabilization needs;
- (2) optimizing returns, subject to specified levels of acceptable risk for the investment horizon;
- (3) transparent, modern and diversified management of the financial assets that are part of the investment portfolio;
- (4) limiting investment to only low-risk investments for a specified minimum number of initial years of the establishment of the Petroleum Funds; and
- (5) risk diversification by ensuring that, as practically possible, a variety of different financial assets are held in the Petroleum Funds and that a limit is set for the maximum investment that may be made in any single financial asset.

(b) The Investment Policy and Strategy shall include, as a minimum:

- (1) the types of permitted investments, including categories of assets and instrument;
- (2) ratings and classifications of permitted investments, based on ratings from no less than two (2) internationally recognized credit rating agencies;
- (3) rules relating to asset diversification including sectors and issuers, and, in the case of fixed-income assets, horizon and maturity;
- (4) the acceptable level of market value fluctuation during the term of the investment;
- (5) the acceptable level of exposure to foreign exchange risk; and
- (6) the rules established to ensure sufficient liquidity for the Annual Planned Withdrawals requirement.

(c) Not less than ninety percent (90%) of the amounts in the Petroleum Funds shall be invested only in qualifying instruments described in subsection (d) below.

(d) Investments shall be held only in the form of the following instruments, known as qualifying instruments:

- (1) cash bank deposits with an Approved Bank;
- (2) negotiable direct obligations issued by an Approved Foreign Government;
- (3) securities issued or fully and directly unconditionally guaranteed or insured by any Approved Foreign Government;
- (4) negotiable direct obligations issued by, and securities issued or fully and directly unconditionally guaranteed or insured by, any Approved Multilateral Organization;
- (5) bankers acceptances, and floating rate certificates of deposit issued by or unconditionally guaranteed or insured by an Approved Bank;
- (6) investments in money market funds, the assets of which shall be limited to securities of the type described above; and
- (7) other financial instruments of similar risk, profitability and liquidity.

(e) Not more than ten percent (10%) of the amount in the Petroleum Funds may be invested in financial instruments other than qualifying instruments and may only be invested in such non-qualifying financial instruments if such instruments are:

- (1) not issued domestically;
- (2) liquid and transparent; and
- (3) traded in a financial market of the highest regulatory standard.

(f) The range of qualifying instruments shall be reviewed by the Minister, and approved by the Olbil Era Kelulau, five (5) years after the establishment of the Petroleum Funds, having regard to the size of the Petroleum Funds and the level of institutional capacity.

(g) The investments of the Petroleum Funds shall be made in stable and freely convertible currencies.

(h) The Petroleum Funds may not invest domestically, whether directly or indirectly, any such investment being reserved to the National Development Bank or other similar institution mandated for this purpose.

**Source**

RPPL 8-36 Chapter 9 § 30, modified.

**§ 887. Implementation of the Investment Policy and Strategy.**

(a) The National Treasurer shall implement the Investment Policy and Strategy by written instructions to the Custody Bank given in accordance with the Management Agreement.

(b) The National Treasurer shall keep the investments of the Petroleum Funds under constant review and shall provide the Investment Management Board with all information in respect of such investments as the Investment Management Board may reasonably request in order to discharge its obligations.

**Source**

RPPL 8-36 Chapter 9 § 31, modified.

**Subchapter X**

**Management of the Petroleum Revenue Accounts**

§ 891. Responsibility of the Minister.

§ 892. Appointment of the Custody Bank.

§ 893. Content of the Management Agreement.

§ 894. Appointment of the Fund Managers.

**§ 891. Responsibility of the Minister.**

(a) The Minister shall have overall responsibility for the management of the Petroleum Revenue Accounts, including:

(1) appointing the Custody Bank and terminating its appointment;

(2) appointing the Fund Managers and terminating their appointment;



- (3) opening the Petroleum Revenue Accounts;
  - (4) executing the Management Agreement with the Custody Bank;
  - (5) executing the Trust Agreement with a State Government;
  - (6) ensuring that the calculations of the Petroleum Revenue, National Planned Withdrawal, State Planned Withdrawals, Saving Ratio, and Sustainable Benchmark Revenue are made in accordance with this chapter;
  - (7) setting investment constraints beyond those specified in this chapter;
  - (8) setting the target return on investment of the Petroleum Funds for the financial year;
  - (9) presenting the Investment Policy and Strategy to the Olbiil Era Kelulau at the time of presentation of the Unified Budget;
  - (10) preparing a report containing detailed calculations of the Sustainable Revenue Benchmark for a financial year and presenting the same to the Olbiil Era Kelulau at the time of presentation of the Unified Budget;
  - (11) ensuring that regular independent audits of the Petroleum Revenue Accounts are carried out in accordance with this chapter;
  - (12) ensuring the preparation of the statements and reports on the operations, management and performance of the Petroleum Revenue Accounts; and
  - (13) ensuring the publication of the audit reports and status reports.
- (b) The Minister shall have the power to delegate to any Public Official, agency, advisor or consultancy, the execution of any of the functions assigned to him under this chapter.

**Source**

RPPL 8-36 Chapter 10 § 32, modified.

**§ 892. Appointment of the Custody Bank.**

- (a) The Minister shall ensure that the Petroleum Revenue Accounts are opened and

maintained with an internationally recognized financial institution to be referred to as the Custody Bank, its branch or agency, in an internationally recognized financial center, both as recommended by the Investment Management Board.

(b) The Custody Bank shall be given the highest rating by two (2) internationally recognized risk analysis agencies, and shall maintain such rating throughout the duration of the Management Agreement.

(c) The Minister shall transfer the Petroleum Revenue Accounts to another institution if:

(1) the Custody Bank ceases to be qualified under subchapter X, section 892(a) and (b) or resigns its mandate; or

(2) the Minister, with the approval of the Investment Management Board, deems it appropriate and prudent.

(d) Upon the transfer of the role of Custody Bank from one institution to another, the Minister shall, within seven (7) days of such transfer, provide a full written explanation of the reasons to the Olbiil Era Kelulau and the Office of the Public Auditor, and shall publicize the explanation in accordance with subchapter XIII.

**Source**

RPPL 8-36 Chapter 10 § 33, modified.

**§ 893. Content of the Management Agreement.**

(a) All Petroleum Revenue Accounts shall be managed in accordance with this chapter and the Management Agreement.

(b) The Minister shall ensure that the procedures set forth in any Management Agreement are transparent, efficient and comply, in all material respects, with this chapter.

(c) The Management Agreement to be executed by the Minister, on behalf of the Government, and the Custody Bank shall contain provisions related to the following:

(1) the payment to the Custody Bank of usual and customary fees and charges for the establishment, holding and management of the Petroleum Revenue Accounts, including related advisory, audit, custodial, investment holding, and similar fees

and charges;

(2) the manner of proof, the certification and deadlines for all automated transfers from the Distribution Account to the National Treasury Account, all State Treasury Account, the Stabilization Fund, the Heritage Fund, and any State Saving Fund;

(3) the manner of proof, the certification, authorizations, and deadlines for all other transactions with and between the Petroleum Revenue Accounts;

(4) the authorization for, manner of proof, and certification of investment transactions;

(5) the manner of proof and certification of returns on investments of the Stabilization Fund, the Heritage Fund, and any State Saving Fund;

(6) the manner of proof and certification of payments of Petroleum Revenues into the Distribution Account made by the persons liable to make such payments;

(7) the provision of regular statements of accounts by the Custody Bank; and

(8) such other matters as the parties may agree, as may reflect international good practice in the field, be reasonable in the circumstances, and not contrary to this chapter.

(d) The Management Agreement shall provide that:

(1) the provisions of this chapter shall be an integral part of the agreement;

(2) transfers from Petroleum Revenue Accounts shall only be effected in accordance with this chapter, and any dealing by the Custody Bank contrary to the foregoing shall be deemed invalid and render the Custody Bank liable for the same if the Custody Bank had knowledge of the circumstances contrary to the provisions of this chapter which make such dealings invalid;

(3) Custody Bank may only resign its mandate on not less than twelve (12) months written notice to the Minister (or such lesser period as the Minister shall decide);

(4) the Ministry may terminate the Custody Bank's mandate with or without notice, and that upon termination of such mandate the Custody Bank will execute such transactions as the Minister shall instruct;

(5) the Custody Bank acknowledges the restrictions provided for in subchapter XI, and that the Custody Bank does not, and shall not, have any claim on the Petroleum Revenue Accounts and the moneys and investments therein, and shall include a similar acknowledgment in regard to all persons holding investments for the Petroleum Funds;

(6) all deposits and withdrawals to and within the Petroleum Revenue Accounts shall be made by electronic transfer;

(7) to the extent practicable, transfers from the Distribution Account to the Stabilization Fund, the Heritage Fund, the State Saving Funds, the National Treasury Account and the State Treasuries Accounts pursuant to subchapters III, IV, VI, and VII, shall be formula-based, and shall be made by the Custody Bank daily (or at such other regular interval) at a time to be specified in the Management Agreement, without the need for further instructions by the Government. The balance of the Distribution Account after any such transfer shall be zero;

(8) save for exceptional withdrawals from the Stabilization Fund pursuant to subchapter VI, section 854, withdrawals from any Petroleum Revenue Account shall require the signature of the National Treasurer (and the State Treasurer if appropriate) and shall be countersigned by the Minister.

(e) The Management Agreement shall be subject to the approval of the Management Investment Board.

**Source**

RPPL 8-36 Chapter 10 § 34, modified.

**§ 894. Appointment of the Fund Managers.**

(a) The Minister may enter into an agreement with one or more internationally recognized Fund Managers with skills, experience, reputation, and credit rating appropriate to their mandate, to advise [him/her] on the implementation of the Investment Strategy and Policy.

(b) Fund Managers shall be selected on the basis of minimum qualification criteria established by the Investment Management Board and following a competitive tender process in accordance with Applicable Law.

(c) A Fund Manager may be given the discretion to make investments of all or part of the Petroleum Funds, in accordance with the Investment Strategy and Policy, and for that purpose the Minister may authorize custody of a portion of the Petroleum Funds to the Fund Manager concerned.

(d) The agreement referred to in subchapter VI, section 854(a) shall be subject to the approval of the Investment Management Board and shall deal with:

(1) the matters set forth in subchapter X, section 893;

(2) the payment to the manager of usual and customary fees and charges by usual and customary means; and

(3) such other matters as may accord with international best industry practice and be reasonable in the circumstances, and in a manner consistent with, and not contrary to, this chapter.

(e) Fund Managers' fees and charges that are not deducted from investment returns shall be included as expenditure in the National Budget.

**Source**

RPPL 8-36 Chapter 10 § 35, modified.

**Notes**

The bracketed [him/her] in subsection (a) read "it" in the original legislation.

**Subchapter XI  
Prohibitions**

§ 8.101. Encumbrances on the Assets of the Petroleum Revenue Accounts.

§ 8.102. Encumbrances on Petroleum Reserves.

**§ 8.101. Encumbrances on the Assets of the Petroleum Revenue Accounts.**

(a) The amounts in the Petroleum Revenue Accounts are held in trust for the people of

Palau and shall remain the property of the Republic at all times.

(b) No legal or beneficial interest in the Petroleum Revenue Accounts, and present or future Petroleum Revenues payable to such accounts pursuant to this chapter, can be created or exist, in any manner or by any means, including a grant, sale or other disposal, option, mortgage, charge, pledge or lien; and any circumstance, or alleged circumstance, including the act of any person, to the contrary shall be deemed invalid.

(c) The Petroleum Funds, and present or future Petroleum Revenues payable to them under this chapter, cannot be made available or used, for the satisfaction of any sovereign or commercial debt of the Governments, and any circumstance, or alleged circumstance, including the act of any person, to the contrary shall be deemed invalid.

**Source**

RPPL 8-36 Chapter 11 § 36, modified.

**§ 8.102. Encumbrances on Petroleum Reserves.**

(a) In order to preserve revenue streams from Petroleum and ensure the objective of this chapter, borrowing against the Petroleum reserves shall be prohibited.

**Source**

RPPL 8-36 Chapter 11 § 37, modified.

**Subchapter XII  
Use of Petroleum Revenue**

§ 8.111. Petroleum Revenues to be Part of the Budget.

**§ 8.111. Petroleum Revenues to be Part of the Budget.**

(a) Petroleum Revenues, their use and expenditure shall:

(1) be part of the National Budget and State Budgets;

(2) be subject to the same budgetary process that is necessary to ensure the efficient allocation and monitoring of any use of public resources;

- (3) promote the equitable distribution of the national wealth among citizens;
  - (4) be guided by a long-term development strategy, macro-economic stability, and fiscal sustainability considerations; and
  - (5) be aligned with a medium-term expenditure framework as approved by the Olbiil Era Kelulau and the State legislatures in accordance with Applicable Law.
- (b) Outside of the National Budget and State Budget allocations, extra budgetary activities and statutory earmarking of Petroleum Revenues for any special considerations shall be prohibited.
- (c) The Petroleum Revenue Accounts may only be used in accordance with this chapter.

Except as expressly provided for in this chapter, any appropriation or other disposition of the monies standing to their balances shall not be authorized.

**Source**

RPPL 8-36 Chapter 12 § 38, modified.

**Subchapter XIII  
Accounting and Audit**

- § 8.121. Accounting.
- § 8.122. Internal Audits.
- § 8.123. External Audits.

**§ 8.121. Accounting.**

- (a) The National Treasurer shall maintain accounts and records of all Petroleum Revenue Accounts, in Dollars and in accordance with International Financial and Reporting Standards in force, to reflect their operations and financial condition.
- (b) The National Treasurer shall ensure that budgeted Petroleum Revenue and Petroleum Revenue actually credited to the Distribution Account are reconciled at least monthly, and a written report is provided to the Minister and the Governors of each State.
- (c) The National Treasurer shall prepare annual accounts of the Petroleum Revenue

Accounts for a financial year, which shall be audited in accordance with subchapter XIII, sections 8.122 and 8.123, and presented to Olbiil Era Kelulau within six (6) months after the end of the financial year as set forth in subchapter XIV.

**Source**

RPPL 8-36 Chapter 13 § 39, modified.

**§ 8.122. Internal Audits.**

(a) The Minister shall, not later than two (2) months after the end of the financial year, submit to the Public Auditor for audit, statements and relevant documents for the Petroleum Revenue Accounts receipts and withdrawals.

(b) The Public Auditor shall, no later than two (2) months after the submission of the statements referred to in subchapter XIII, section 8.122(a), submit his report on the statements to the Olbiil Era Kelulau.

(c) The Public Auditor shall determine if:

(1) the accounts have been properly kept;

(2) the payments due to the Petroleum Distribution Account, the National Treasury Account, the State Treasuries Accounts, the Stabilization Fund, the Heritage Fund, and any State Saving Fund have been made in accordance with this chapter; and

(3) the Petroleum Funds are managed in accordance with this chapter.

**Source**

RPPL 8-36 Chapter 13 § 40, modified.

**§ 8.123. External Audits.**

(a) The Minister shall ensure that the operations of the Petroleum Revenue Accounts are audited annually by a credible independent auditor.

(b) The appointment of the external auditor shall not exceed three (3) years for each contract and is renewable for not more than two (2) contract periods in succession.



(c) The procurement of the services of the independent auditor shall be in accordance with the Public Procurement Act.

**Source**

RPPL 8-36 Chapter 13 § 41, modified.

**Subchapter XIV  
Transparency and Public Access to Information**

- § 8.131. Reports on the Petroleum Revenue Accounts.
- § 8.132. Transparency as a fundamental principle.
- § 8.133. Non-compliance with an obligation to publicize information.
- § 8.134. Penalties.

**§ 8.131. Reports on the Petroleum Revenue Accounts.**

(a) No later than twenty (20) days after the end of each quarter, the National Treasurer shall submit to the Investment Management Board quarterly management information reports and analyses on the performance and activities of the Petroleum Funds and the operations of the Distribution Account, including transfers to and within accounts, cash balances and all investments therein (including initial price and current value).

(b) The Investment Management Board shall prepare, in summary form and content readily understandable by the general public, a quarterly statement and explanation of the management reports prepared by the National Treasurer, and the Minister shall ensure the prompt publication of such quarterly statements and management reports in a manner easily accessible to the general public.

(c) No later than six (6) months from the end of a financial year the Minister shall submit an Annual Report on the Petroleum Revenue Accounts to the Olbiil Era Kelulau, prepared in a manner that makes it readily adaptable for dissemination to the public, which shall include the information set out in [subsection (d)].

(d) The Annual Report for the Distribution Account and the Petroleum Funds shall include the following information for the financial year for which the Annual Report is prepared:

- (1) financial statements certified by a credible, independent auditor, comprising:

- (A) an income and expenditure statement;
  - (B) a balance sheet, including a note listing the qualifying instruments of the Petroleum Funds, valued at market value;
  - (C) details of all appropriations and transfers from the Petroleum Funds;
  - (D) details of all appropriations and transfers from the Distribution Account; and
  - (E) notes to the financial statements, as appropriate;
- (2) a report signed by the Minister describing the activities of the Petroleum Revenue Accounts in the financial year, including all material Investment Policy and Strategy decisions made by the Investment Management Board, and drawing attention to particular issues or matters that may be of concern or interest to the Olbiil Era Kelulau;
- (3) a statement by the National Treasurer drawing attention to any accounting issues or practices used in the preparation of the Annual Report that may materially affect the interpretation of amounts or activities shown within it;
- (4) the income derived from the investment of Petroleum Fund assets during the financial year compared with the income of the previous three (3) financial years;
- (5) a comparison of the nominal income on the investment of Petroleum Fund assets with the real return after adjusting for inflation;
- (6) a comparison of the income derived from the investment of Petroleum Fund assets with the benchmark performance indices established by the Investment Management Board for the financial year;
- (7) a comparison of the estimated sustainable income for the financial year with the actual amount of the National Planned Withdrawal and State Planned Withdrawals for the financial year;
- (8) in the event of borrowings from a Government, the liabilities shall be reflected in the presentation of Petroleum Funds accounts so as to give a true representation of the past and expected future development of the Governments

net financial assets and rate of savings; and

(9) the name of the Custody Bank and a list of Persons holding positions relevant for the operation and performance of the Petroleum Fund, including:

(A) the Minister;

(B) the National Treasurer; and

(C) the members of the Investment Management Board.

(e) The sources of the information described in [subsection (d)], whatever their form, and including all reports and statements, shall be annexed to the Annual Report in unedited form.

**Source**

RPPL 8-36 Chapter 14 § 42, modified.

**Notes**

In subsections (c) and (e), the bracketed [subsection (d)] replaced the wording "Schedule 4" in the original legislation per Code Commission.

**§ 8.132. Transparency as a fundamental principle.**

(a) Subject to subchapter XIV, section 8.132(b), the management of Petroleum Revenue and Petroleum Revenue Accounts shall reflect at all times the highest internationally accepted standards of transparency and good governance for similar activities.

(b) Information or data, the disclosure of which could materially prejudice the performance of the Petroleum Funds, may be declared by the Minister as confidential, subject to the negative resolution of the Olbiil Era Kelulau.

(c) The declaration of confidentiality shall provide a clear explanation of the reasons for treating the information or data as classified, taking into account the principles of transparency and the right of the public as regards access to information.

(d) The declaration of confidentiality shall not limit access to information by the Olbiil Era Kelulau, the State legislatures, the Public Auditor, the Investment Management Board, and any other Public Official who may reasonably need access to such information in order to discharge their duties under Applicable Law.

(e) Any information that is classified at the time when it could have been published, as well as the reason for it being treated as classified, shall be made available to the public upon request three (3) years after the date on which it could have been published unless the reasons for it being classified are still valid.

**Source**

RPPL 8-36 Chapter 14 § 43, modified.

**§ 8.133. Non-compliance with an obligation to publicize information.**

A Person who fails to comply with any obligation to publish information provided for in this chapter, or causes another person to fail to comply with, or in any manner hinders or causes another person to hinder the compliance with these obligations, commits an offence and is liable on summary conviction to a fine of up to three hundred thousand dollars (\$300,000).

**Source**

RPPL 8-36 Chapter 14 § 44, modified.

**§ 8.134. Penalties.**

(a) A Person who fails to do anything required by this chapter, or unlawfully discloses any document or information pertaining to the operations of the Petroleum Revenue Accounts or uses the information or document for personal benefit or advantage, shall be guilty of a criminal offense and shall be liable upon conviction to: a fine of up to one million dollars (\$1,000,000), to a term of imprisonment for not more than five (5) years, or to both a fine and imprisonment.

(b) A person who instructs, or purports to instruct, or attempts to instruct, the Custody Bank to transfer moneys from the Petroleum Revenue Accounts other than in accordance with this chapter, shall be guilty of a criminal offense and shall be liable upon conviction to: a fine of not more than five hundred thousand dollars (\$500,000), to a term of imprisonment for not more than two (2) years, or to both a fine and imprisonment.

(c) A person who:

(1) willfully hinders or deters any person from the proper exercise of his functions or the performance of his obligations under or in respect of this chapter;

(2) makes, or offers to make, any inducement to any such person to secure an

advantage for himself or another, or to influence any such person; or

(3) threatens, or otherwise seeks unlawfully to influence, any such person, commits an offense and is liable on summary conviction to a fine of up to five hundred thousand dollars (\$500,000) and to a term of imprisonment for up to five (5) years or to both.

(d) Penalties provided under this chapter shall not limit a person's liability under Applicable Law.

**Source**

RPPL 8-36 Chapter 14 § 45, modified.

**DIVISION 2  
UNIFIED TAX ACT**

**Chapter 10  
General Provisions**

- § 1001. Short title.
- § 1002. Definitions.
- § 1003. Other definitions.
- § 1004. Associates.
- § 1005. Fair market value.

**§ 1001. Short title.**

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

**Source**

RPPL 1-63 § 101, modified.

**Notes**

Palau Marine Indus. Corp., v. ROP, 15 ROP 103, 105 (2008).  
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 fifteen percent (15%) 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 Finance.

(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) “Capital asset” means a tangible or intangible asset of a business, other than inventory, that:

- (1) has a useful life exceeding one year; or
- (2) does not have an ascertainable useful life.

(f) “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.

(g) “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.

(h) “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.

(i) “Depreciable asset” means a capital asset of a business that:

- (1) has an ascertainable useful life exceeding one year;
- (2) is likely to lose value as a result of normal wear and time, or the passing of time; and
- (3) is used to derive gross revenue.

(j) “Director” means the Director of the Bureau of Revenue, Customs and Taxation in the Ministry of Finance, or his designee.

(k) “Employee” means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee and includes an individual who holds an office.

(l) “Employer” means any person who pays another in consideration for the rendition of personal services unless the payer 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, and a person who pays a person who holds an office.

(m) “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.

(n) “Gallon” means one hundred twenty-eight (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 by a person from business, from the exploitation of capital whether in the form of gains on the disposition of capital assets of the business, and interest, dividends, royalties, rentals, fees or otherwise, however, such receipts may be described without deduction or offset of any kind or nature. “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; and
- (5) the cost of senior citizen discounts.

(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) “International traffic”, in relation to a ship or aircraft, means any operation of the ship or aircraft except as between two (2) places in the Republic.

(u) “Inventory” means anything produced, manufactured, purchased, or otherwise acquired for manufacture, sale, or exchange, and includes raw materials and consumables used in the production or manufacturing process, and livestock;

(v) “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.

(w) “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.

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

(y) “Net income” means the gross revenue of a person for a tax year less the following deductions for expenditures or losses incurred by the person during the year to derive gross revenue:

- (1) salaries, bonuses or other compensation for personal services provided by employees;
  - (2) interest or discount;
  - (3) rents;
  - (4) ordinary operating expenses such as supplies, utility services, insurance premiums, other than for life insurance;
  - (5) the loan loss reserve of banks and the reserves of insurance companies to the extent provided for in regulations;
  - (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 or damages collected;
  - (7) miscellaneous direct expenses such as legal, advertising, auditing, and the like;
  - (8) consideration for the acquisition of inventory;
  - (9) losses on disposition of capital assets of the business; and
  - (10) depreciation of depreciable assets of the business for the year as determined under the regulations and in accordance with U.S. Generally Accepted Accounting Principles (GAAP).
- (z) “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.
- (aa) “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.

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

(cc) “Profession” means the capability to exercise a skill or art including, but not limited to, dentistry, medicine, law, pharmacy, accounting, architecture, psychology, and engineering.

(dd) “Republic” means the Republic of Palau.

(ee) “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 sixty (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.

(ff) “Retail” means the transfer of property to one who is buying for consumption and not resale.

(gg) [Repealed]

(hh) “Tax year” means the calendar year.

(ii) “Wages” or “salaries” means any compensation paid to an employee in his capacity as such for the rendition of personal services in the Republic 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.

(jj) "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.

**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. Subsection (y) amended by RPPL 6-26 § 27(e). Subsection (o) is amended by RPPL 8-49 § 3, modified. Subsection (o) is restored to the language in place prior to the enactment of RPPL 8-49. Amendment to subsection (o) enacted by RPPL 8-49 is repealed by RPPL 9-55 § 11. RPPL 11-11 § 3 amended subsections (i),(j),(o),(y) and (gg) and added subsections (jj),(kk), (ll) and (mm). Subsections (k),(m) and (ee) are repealed by RPPL 11-11 § 17.

**Notes**

All subsections are re-lettered alphabetically to conform with the Code format.

See 2 PNCA § 118 concerning the duties and responsibilities of tax, revenue, and custom collection. Former § 118 entitled “Bureau of Revenue, Customs, and Taxation” is repealed by RPPL 11-7 § 5.

Kanai v. ROP, 2016 Palau 29 ¶¶ 5, 6, 7, 8, 9, 10, 11, 12, 16.

Palau Marine Indus. Corp. v. ROP, 15 ROP 103, 104, 105 (2008).

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

**§ 1003. Other definitions.**

In this division:

- (a) “Approved form” means a form approved by the Director for the purposes of this division.
- (b) “Assessment” means an assessment made under this division, including a self-assessment.
- (c) “Competent authority,” in relation to a signatory to a treaty, means the person designated under the treaty as the competent authority of the signatory.
- (d) “Data storage device” means a computer, mobile electronic device, portable information storage media, or any other electronic device for the storage of information.
- (e) “Electronic information storage facility” means a data storage device or any other facility, including an electronic facility, for the electronic storage of information.
- (f) “Late payment interest” means interest payable under section 1702.
- (g) “Penalty” means a penalty imposed under sections 1286, 1701, 1703(c), or 1705.
- (h) “Person” means any individual, firm, partnership, joint venture, corporation, estate,

trust, or other association, however organized, and includes any government entity, as defined in section 1202, state owned enterprise, and public corporation.

(i) “Record” means any record that a taxpayer is required to keep under this division and includes any information or data stored in an electronic information storage facility.

(j) “Representative,” in relation to a taxpayer, means the person specified in the regulations as the representative of the taxpayer.

(k) “Return” means a return to be filed under this division, including a return to be filed by an employer under section 1102(a).

(l) “Scheme” includes a course of action, and an agreement, arrangement, promise, plan, proposal, or undertaking, whether express or implied, and whether or not legally enforceable. A scheme may be undertaken unilaterally or by two (2) or more persons.

(m) “Self-assessment” means a return treated as a self-assessment under section 1602.

(n) “Tax” means a tax, duty, fee, levy, or penalty imposed under this division and includes withholding tax.

(o) “Taxpayer” means a person liable for tax under this division.

(p) “Tax period,” in relation to a tax, means the period for which the tax is reported under this division.

(q) “Unpaid tax” means tax that is not paid by the due date as specified under this division and includes any unpaid late payment interest payable in respect of the tax liability.

(r) “Withholding tax” means:

(1) tax withheld by an employer from salary and wages under section 1102;

(2) an amount deducted from a payment by a person under the terms of a notice served on the person under section 1611; or

(3) tax withheld by a person from a payment made to a non-resident under section 1465.

**Source**

RPPL 11-11 § 4, modified.

**Notes**

Subsections (a) to (r) replaced (1) to (18) in the original legislation to conform with the Code format. Also, subsection (r) (1) to (3) replaced (A) to (C) in the original legislation, modified.

**§ 1004. Associates.**

For the purposes of this division, unless the context otherwise requires, two (2) persons are associates:

- (a) if one (1) person acts or may act in accordance with the directions, requests, suggestions, or wishes of the other person, other than solely by reason of an employment or client relationship; or
- (b) both persons act or may act in accordance with the directions, requests, suggestions, or wishes of a third person, other than solely by reason of an employment or client relationship.

**Source**

RPPL 11-11 § 4, modified.

**Notes**

Subsections (a) and (b) replaced (1) and (2) in the original legislation to conform with the standard format used in the Code.

**§ 1005. Fair market value.**

- (a) For the purposes of this division and subject to this section, the fair market value of goods, an asset, service, or supply at a particular time is the amount that the goods, asset, service, or supply would fetch in an open market transaction freely made at that time between persons dealing with each other at arm's length.
- (b) If it is not possible to determine the fair market value of goods, an asset, service, or supply at a particular time under subsection (a), the fair market value is the amount that similar goods, asset, service, or supply would fetch in an open market transaction freely made at that time between persons dealing with each other at arm's length, adjusted to take account of the differences between the similar goods, asset, service, or supply and the actual goods, asset, service, or supply.

(c) For the purposes of subsection (b), goods, an asset, service, or supply is similar to other goods, asset, service, or supply, as the case may be, where it is the same as, or closely resembles, the other goods, asset, service, or supply in character, quality, quantity, functionality, materials, sale terms, and reputation.

(d) If the fair market value of goods, an asset, service, or supply cannot be determined under subsection (a) or (b), the fair market value is the amount determined by the Director, provided the valuation is consistent with generally accepted valuation principles.

(e) For the purposes of this section, a transaction is treated as having been made between persons dealing with each other at arm's length if the parties to the transaction, whether or not associates, have acted separately and independently in negotiating the terms of the transaction.

(f) In this section, "supply" has the meaning in section 1202.

**Source**

RPPL 11-11 § 4, modified.



**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.
- § 1105. Retired traditional chiefs and state legislators.
- § 1106. Social assistance payment for citizens engaged in informal market sector.
- § 1107. Social assistance payment for citizens on fixed incomes.

**§ 1101. Tax on wages and salary.**

There shall be assessed, levied, collected, and paid a tax of six percent (6%) upon the first eight thousand dollars (\$8,000), ten percent (10%) upon the amount over the first eight thousand dollars (\$8,000) but not over forty thousand dollars (\$40,000), and twelve percent (12%) upon the amount over the first forty thousand dollars (\$40,000) of all wages and salaries received by every employee.

**Source**

RPPL 1-63 § 201, modified. Amended by RPPL 6-26 § 27(a)[1101], modified. Amended by RPPL 11-11 § 5.

**§ 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 thirty (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 thirty (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 forty-five (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 sixty (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, modified.

**§ 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 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 thirty (30) days from the application. If it is shown upon application by an employee who is a citizen of the Republic that the employee earned fifteen thousand dollars (\$15,000) or less in a tax year, then the Director shall refund within sixty (60) days from the date of application the entire amount of tax withheld from the citizen employee's wages or salary pursuant to section 1101. 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, or financial contributions made by such employee to the Our Ocean Conference 2020 Fund, the Palau Community College, or a nonprofit corporation which meets requirements set out in regulation during the tax year, then the Director shall refund such amounts within ninety (90) days after the end of the tax year; provided that the amount of such a refund shall not exceed ten percent (10%) of the income taxes paid by that employee in that tax year. Eligibility for any refund shall be determined in accordance with this section and with regulations promulgated by the Minister of Finance pursuant to Administrative Procedure Act, 6 PNC chapter 1.

**Source**  
RPPL 1-63 § 204, modified. Amended by RPPL 4-36 § 6. Amended in its entirety by RPPL 7-13 § 24. Amended by RPPL 7-51 § 5, modified. Amended by RPPL 10-18 § 3, modified. Amended by RPPL 11-11 § 5, modified.

**§ 1105. Retired traditional chiefs and state legislators.**

(a) A retired chief who receives remuneration for performing an obligation arising automatically due to his traditional title of chief shall not be subject to the wages and salary tax of this chapter on any money so earned. This exemption shall not apply to

wages and salary received from any voluntarily assumed functions.

(b) A retired person who serves as a state legislator shall not be subject to the wages and salary tax of this chapter on any money earned from his service in a state legislature.

**Source**

RPPL 5-34 § 32(a).

**§ 1106. Social assistance payment for citizens engaged in informal makit sector.**

(a) Subject to subsections (b), (c), and (d), a Palauan citizen involved in the informal makit sector whose gross revenue is fifteen thousand dollars (\$15,000) or less in a tax year shall be entitled, upon application to the Minister of Health and Human Services, to receive a social assistance payment of four percent (4%) of the citizen's total makit revenue, up to a maximum of six hundred dollars (\$600). Citizens holding formal employment who have tax withheld from their salary and wages pursuant to section 1101 shall not be eligible to receive assistance under this section. The Minister of Health and Human Services shall promulgate regulations governing the administration and implementation of the social assistance payment established under this section.

(b) In order to be eligible to receive the social assistance payment established under subsection (a), a citizen must register with the Ministry of Finance at the beginning of each tax year as an individual conducting small business in the informal makit sector. The Minister of Finance may charge an administrative fee associated with such registration, provided that any fee charged shall be no more than twenty dollars (\$20) per year.

(c) In order to be eligible to receive the social assistance payment established under subsection (a), a citizen must submit quarterly reports to the Director of Revenue and Taxation detailing all his or her makit transactions and revenue derived therefrom during the quarter. The Director of Revenue and Taxation shall offer assistance to individuals as necessary and appropriate to facilitate the submission of these quarterly reports.

(d) Individuals receiving any retirement income, including Social Security benefits, benefits from the Civil Service Pension Plan, or any other source of retirement benefits, shall not be eligible to receive the social assistance payment established under this section.

(e) A citizen who receives a social assistance payment under this section shall also be

eligible to receive the child raising subsidy established under 34 PNC § 8506.

**Source**

RPPL 11-11 § 6, modified.

**§ 1107. Social assistance payment for citizens on fixed incomes.**

A Palauan citizen receiving Social Security benefits or payments from the Republic of Palau Civil Service Pension Plan and Trust, or both, whose total income (makit revenue and retirement income combined) is fifteen thousand dollars (\$15,000) or less in a tax year, shall be entitled to receive, upon application to the Minister of Health and Human Services, a social assistance payment of four percent (4%) of the individual's makit revenue for the year, up to a maximum of six hundred dollars (\$600). The Minister of Health and Human Services shall promulgate regulations governing the implementation of this social assistance payment, including but not limited to, application deadlines and required documentation. A citizen who receives a social assistance payment under this section shall also be eligible to receive the child raising subsidy established under 34 PNC § 8506.

**Source**

RPPL 11-11 § 6.

**Chapter 12**  
**Palau Goods and Services Tax**

**Subchapter I**  
**General Provisions**

- § 1201. Short title.
- § 1202. Definitions.
- § 1203. Business.
- § 1204. Price.
- § 1205. Supply of imported services.

**§ 1201. Short title.**

This chapter shall be known and may be cited as the “Palau Goods and Services Tax Act.”

**Source**  
RPPL 11-11 § 2.

**Notes**  
RPPL 11-11 § 21 reads: Effective date and transitional registration period.  
(a) Except as otherwise explicitly provided by this Act, this Act shall be effective on January 1, 2023.  
...

PGST Steering Committee established: *see* RPPL 11-11 § 20.  
Former Chapter 12 entitled “Gross Revenue and Net Income Tax” repealed by RPPL 11-11 § 2.

**§ 1202. Definitions.**

Unless the context requires otherwise, for the purposes of this chapter:

- (a) “Adjustment event” has the meaning set forth in section 1251(f).
- (b) “Ancillary transport services” means stevedoring services, lashing and securing services, cargo inspection services, preparation of customs documentation, container handling services, and the storage of transported goods or goods to be transported, but does not include such services supplied directly in connection with an aircraft or ship that is temporarily imported under the Customs legislation.

**PALAU GOODS AND SERVICES TAX 40 PNCA § 1202**

- (c) “Business” means as set forth in section 1203.
- (d) “Commencement date” means January 1, 2023.
- (e) “Credit note” means a document that a supplier is required to issue under section 1272(a).
- (f) “Creditable acquisition,” in relation to a registered person, means:
  - (1) a taxable supply made to the person by another registered person;
  - (2) a supply of imported services made to the person; or
  - (3) a taxable import made by the person.
- (g) “Customs legislation” means chapter 13 of Division 2 of Title 40, entitled “Import Tax”, and any subsidiary legislation that amends the provisions of that chapter, successor legislation to that chapter, or other subsidiary legislation providing for Customs control of imported or exported goods and the imposition of a tax or duty on such goods.
- (h) “Debit note” means a document that a supplier is required to issue under section 1272(b).
- (i) “Employment” means an employee-employer relationship as determined under the usual common law rules and includes the holding of a public office, as defined in 33 PNC § 601(o), the holding of a directorship in a company, and the position of a traditional leader.
- (j) “Entertainment” means the provision of food, beverages, tobacco, amusement, recreation, or hospitality of any kind.
- (k) “Excise tax” means excise tax imposed under chapter 26.
- (l) “Exempt import” means an import specified in section 1215.
- (m) “Exempt supply” means a supply specified in section 1213.
- (n) “Exempt use” means the use of goods or services to make an exempt supply.

(o) “Financial services” means:

(1) the granting, negotiating, and dealing with loans, credit, credit guarantees, and any security for money, including management of loans, credit, or credit guarantees by the grantor;

(2) transactions concerning money, deposit and current accounts, payments, transfers, debts, checks, or negotiable instruments, other than debt collection and factoring;

(3) transactions relating to financial derivatives, forward contracts, options to acquire financial instruments, and similar arrangements;

(4) transactions relating to shares, stocks, bonds, and other securities, other than custody services;

(5) the management of investment funds;

(6) the provision or transfer of ownership of an insurance contract or the provision of reinsurance in respect of any such contract;

(7) the provision, or transfer of ownership, of an interest in a scheme for the payment or granting of benefits by a benefit fund, provident fund, pension fund, retirement annuity fund, or preservation fund;

(8) a supply of credit under an installment sale agreement, if the credit is provided for as a separate charge and the charge is disclosed to the recipient of the goods;

(9) providing, taking, varying, or releasing a guarantee, indemnity, security, or bond in respect of the performance of obligations under a check, letter of credit, debt instrument, share in the capital of a company, interest in a unit trust or similar contributory scheme, or contract for the provision of credit;

(10) the arranging of any of the services in paragraphs (1) through (9).

(p) “Goods” means tangible personal property or real property, but does not include money or a product that is transmitted by means of a wire, cable, radio, optical, or other electromagnetic system or by means of a similar technical system.



## PALAU GOODS AND SERVICES TAX 40 PNCA § 1202

(q) “Government entity” means:

- (1) the national government of the Republic, including a department, division, or agency of the government;
- (2) a state, or local government authority, council, or similar body in the Republic;
- (3) a commission, board, authority, or other semi-autonomous public entity, including a public lands authority, created under the laws of the Republic, with the exception of the Palau Public Utilities Corporation, the Palau National Communications Corporation, and the Belau Submarine Cable Corporation;
- (4) a foreign government or political subdivision of a foreign government; or
- (5) a person that has the responsibility under a law of the Republic to issue a license, permit, certificate, concession, authorization, or other document that has effect in the Republic.

(r) “Importer,” in relation to an import of goods, includes the person who owns the goods, or any other person for the time being possessed of or beneficially interested in the goods, or permitted to import goods under the Customs legislation.

(s) “Import tax” means any import tax imposed under the Customs legislation.

(t) “Input tax,” in relation to a registered person, means the PGST paid in respect of a creditable acquisition made by the person and an amount that is treated for the purposes of this chapter as input tax paid by the person, but does not include late payment interest or penalty imposed in respect of a creditable acquisition.

(u) “Input tax credit” means the credit for input tax allowed under this chapter.

(v) “Installment sale agreement” includes a lease of goods that is a finance lease under International Financial Reporting Standards.

(w) “International transport services” means the services, other than ancillary transport services, of transporting goods or passengers by sea or air:

- (1) from a place outside the Republic to another place outside the Republic,

including, if relevant, any part of the transport that takes place across the territory of the Republic;

(2) from a place outside the Republic to a place within the Republic as the final destination for the transportation; or

(3) from a place within the Republic as the place where the transportation commenced to a place outside the Republic.

(x) “Invoice” means a document stating an obligation to make a payment and includes a PGST invoice.

(y) “Money” means:

(1) any coin or paper currency that is legal tender in the Republic, other than a coin or paper currency that is a collector’s piece;

(2) a bill of exchange, promissory note, bank draft, or postal or money order;

(3) whatever is supplied as payment by way of:

(A) a credit card or debit card; or

(B) the crediting or debiting of an account.

(4) any form of traditional currency that contains value according to the traditions and customs of the Republic.

(z) “Non-resident telecommunications supplier” means a supplier of telecommunications services that is not a resident telecommunications supplier.

(aa) “Output tax” means:

(1) the PGST received by a registered person on a taxable supply made by the person;

(2) the PGST payable by a registered person on a supply of imported services made to the person; or

**PALAU GOODS AND SERVICES TAX 40 PNCA § 1202**

- (3) an amount that is treated for the purposes of this chapter as output tax of the person.
- (bb) “Palau Goods and Services Tax” or “PGST” means the Palau Goods and Services Tax imposed under this chapter.
- (cc) “PGST invoice” means a document required to be issued under section 1271.
- (dd) “PGST period” means a calendar month in which the PGST collected by a registered person is due under this chapter.
- (ee) “Prescribed” means as set forth in regulations promulgated under this chapter.
- (ff) “Received,” in relation to a person, includes applied on behalf of the person either at the instruction of the person or under any law.
- (gg) “Recipient,” in relation to a supply, means the person or persons to whom the supply is made.
- (hh) “Recipient-created PGST invoice” means a recipient-created PGST invoice referred to in section 1237(b).
- (ii) “Registered person” means a person registered under section 1223 and includes a person who is required to apply for registration under section 1221 but who has not done so within the time specified in section 1221.
- (jj) “Registration threshold” means the amount specified in section 1221(b).
- (kk) “Remote services” means services for which, at the time of the supply of the services, there is no necessary connection between:
- (1) the place where the services are physically performed; and
  - (2) the location of the recipient of the services.
- (ll) “Resident telecommunications supplier” means a supplier of telecommunications services that is incorporated, formed, or organized in the Republic.
- (mm) “Services” means anything that is not goods or money.

(nn) “Supplier,” in relation to a supply, means the person or persons who made the supply.

(oo) “Supply” means a supply of goods, a supply of services, or a supply of imported services.

(pp) “Supply of goods” means a sale, exchange, or other transfer of the right to dispose of goods as owner, and includes an installment sale agreement.

(qq) “Supply of imported services” has the meaning in section 1205.

(rr) “Supply of services” means anything provided to, or performed for, a person that is not a supply of goods or money, including the provision of utilities and the grant, assignment, or surrender of any right.

(ss) “Taxable import” means an import of goods, other than an exempt import.

(tt) “Taxable supply” means a supply of goods or services, other than an exempt supply, made in the Republic by a person in the course or furtherance of a business conducted by the person, and includes anything treated as a taxable supply for the purposes of this chapter.

(uu) “Telecommunications services” means the transmission, emission, or reception of signals, writing, images, sounds, or information of any kind by wire, radio, optical, cable, or other electromagnetic systems, and includes:

(1) the related transfer or assignment of the right to use capacity for such transmission, emission, or reception; or

(2) the provision of access to global or local information networks, but does not include the supply of the underlying writing, images, sounds, or information.

(vv) “Zero-rated supply” means a supply specified in section 1212.

**Source**

RPPL 11-11 § 2, modified.

**Notes**

Numbering subsections are re-lettered and paragraphs renumbered to comply with the standard code format.

## PALAU GOODS AND SERVICES TAX 40 PNCA § 1204

### § 1203. Business.

(a) Subject to subsections (b) and (c) of this section, a “business” is: an activity carried on continuously or regularly by a person, whether for pecuniary profit or not, if the activity involves or is intended to involve the supply of goods or services to another person.

(b) “Business” does not include:

(1) an activity of a government entity that involves the supply of goods or services for a fee, including, but not limited to, the service of issuing a license, permit, certificate, concession, authorization, or other document for a fee;

(2) an employment;

(3) a sale, lease, or transfer by a private individual of property when such sales, leases, or transfers are not made by the individual on a continuous or regular basis;

(4) a hobby or leisure activity of an individual, for which the individual receives no profit; or

(5) an activity of a person, other than an individual, that is essentially carried on as a hobby or leisure activity for the benefit of a member, owner, or associate of the person.

(c) An activity done or undertaken in the commencement, termination, or reorganization of a business will be treated as done in the course or furtherance of that business.

#### Source

RPPL 11-11 § 2, modified.

### § 1204. Price.

(a) Subject to subsections (b) and (c) of this section, the price of a supply is the total of the following amounts:

(1) the amount in money paid or payable by any person, directly or indirectly, for the supply;

(2) the fair market value of an amount in kind paid or payable by any person, directly or indirectly, for the supply;

(3) any taxes, duties, levies, fees, and charges, not including PGST, paid or payable in respect of or by reason of the supply; and

(4) a service charge paid or payable in respect of the supply.

(b) The amount determined under subsection (a) is reduced by any discounts or rebates allowed and accounted for at the time of supply. A discount or rebate allowed after the time of supply is accounted for under section 1251.

(c) The price of a sale of goods under an installment sale agreement to which section 1231(b) applies does not include any amount payable in relation to the supply of financial services under the agreement.

**Source**

RPPL 11-11 § 2, modified.

**§ 1205. Supply of imported services.**

(a) A supply of imported services is a supply of services that satisfies the following conditions:

(1) the supply is made to a registered person;

(2) the supply is made by a person who is either not a registered person or is a registered person without a fixed place of business in the Republic;

(3) the supply is not a taxable supply because the supply is not made in the Republic; and

(4) the supply would have been a taxable supply if it had been made in the Republic.

(b) For the purposes of subsection (a), if a registered person carries on a business both in and outside the Republic, then the following rules apply:

(1) that part of the business carried on outside the Republic is treated as if it were

## PALAU GOODS AND SERVICES TAX 40 PNCA § 1211

a business carried on by a person, referred to as “the overseas person” in this subsection, separate from the registered person and both persons are treated as associates of each other;

(2) the overseas person is deemed to not be a registered person; and

(3) the internal provision of services from the overseas person to the registered person is treated as a supply of services made by the overseas person in the course or furtherance of a business carried on outside the Republic.

### Source

RPPL 11-11 § 2, modified.

### Subchapter II Imposition of Palau Goods and Services Tax

§ 1211. Imposition of PGST on supplies made by or to registered persons.

§ 1212. Zero-rated supplies.

§ 1213. Exempt supplies.

§ 1214. Imposition of PGST on taxable imports.

§ 1215. Exempt imports.

#### § 1211. Imposition of PGST on supplies made by or to registered persons.

(a) Every registered person will be assessed and levied, and must pay, Palau Goods and Services Tax at the rate specified in subsection (b) on the value of the following:

(1) a taxable supply made by the person; and

(2) a supply of imported services made to the person.

(b) The rate of PGST is:

(1) for a taxable supply that is a zero-rated supply, zero percent (0%); or

(2) for any other taxable supply, ten percent (10%).

(c) The liability for PGST on a taxable supply made by a registered person arises at the

time of supply and must be accounted for to the Director by the registered person making the supply in accordance with section 1282. Notwithstanding anything contained in any law or agreement, the PGST payable by a registered person in respect of a taxable supply made by the person is recoverable by the person from the recipient of the supply.

(d) The liability for PGST on a supply of imported services made to a registered person arises at the time of supply and must be accounted for to the Director by the registered person receiving the supply in accordance with section 1282.

**Source**

RPPL 11-11 § 2, modified.

**§ 1212. Zero-rated supplies.**

(a) Subject to this section, the following supplies are zero-rated supplies:

(1) a supply of goods that is an export of the goods;

(2) a supply of goods that are treated under the Customs legislation as stores for use or consumption outside the Republic on:

(A) an aircraft or ship going to a destination outside the Republic; or

(B) a fishing vessel going outside the Republic's fishing waters;

(3) a supply of goods in the course of repairing, renovating, modifying, or treating goods that are temporarily imported under the Customs legislation if the first-mentioned goods:

(A) are wrought into, affixed to, attached to, or otherwise form part of the temporarily imported goods; or

(B) are stores that become unusable or worthless as a direct result of being used in the repair, renovation, modification, or treatment process;

(4) a supply of services for use or consumption outside the Republic as evidenced by documentary proof acceptable to the Director;

(5) a supply of services directly in connection with goods that are temporarily



**PALAU GOODS AND SERVICES TAX 40 PNCA § 1212**

imported under the Customs legislation;

(6) a supply of international transport services;

(7) a supply of telecommunications services if:

(A) the supply is made by a resident telecommunications supplier to a non-resident telecommunications supplier; or

(B) the person who initiates the supply as determined under section 1234(f), including when the person initiates the supply on behalf of another person, does so while physically located outside the Republic;

(8) a supply of goods or services as part of the transfer of a business, or part of a business, as a going concern by a registered person to another registered person if:

(A) all the goods or services necessary for the continued operation of the business or part of the business are supplied to the transferee;

(B) the transferor carries on the business until the day of transfer;

(C) the transferee will not carry on the business to make exempt supplies and will not use the goods or services transferred for private use; and

(D) the transferor and transferee agree in writing, on or before the date of the transfer, that the transfer will be treated as a transfer of a business or part of a business as a going concern for the purposes of this chapter;

(9) a supply of prescription medicine made to a pharmacy, medical clinic, or hospital licensed to operate in the Republic;

(10) a supply of plastic pellets intended solely for use in the manufacture of bottled water in the Republic, provided that the supply is made to a manufacturer registered under chapter 26 of this Title; and

(11) a supply of empty glass bottles or empty aluminum cans intended solely as containers for alcohol manufactured in the Republic, provided that the supply is made to a manufacturer registered under chapter 26 of this Title.

(b) A supply of goods is an export of the goods if the goods are delivered to, or made available at, an address outside the Republic. For this purpose, the delivery of the goods to the owner, charterer, or operator of a ship or aircraft supplying international transport services for the purposes of carrying the goods outside of the Republic is, in the absence of proof to the contrary, sufficient evidence that the goods have been exported.

(c) A supply of goods is not a zero-rated supply under subsection (a)(1) or (a)(2) if the goods have been or will be re-imported into the Republic.

(d) A supply of services that consists of the facilitation of inbound tour operations is not a zero-rated supply under subsection (a)(4). Services that consist of the facilitation of inbound tour operations are services provided in packaging one or more tourism products or services in the Republic and selling them outside the Republic to a non-registered person. The tourism products and services may include accommodation, meals, transport, tours, or other activities in the Republic.

**Source**

RPPL 11-11 § 2, modified.

**§ 1213. Exempt supplies.**

(a) The following supply, if not a zero-rated supply, is an exempt supply:

(1) a supply of financial services.

**Source**

RPPL 11-11 § 2.

**§ 1214. Imposition of PGST on taxable imports.**

Palau Goods and Services Tax is imposed at the rate of ten percent (10%) on the value of a taxable import made by an importer. The liability for PGST imposed on a taxable import arises at the time of import and must be paid by the importer in accordance with section 1282.

**Source**

RPPL 11-11 § 2, modified.

**PALAU GOODS AND SERVICES TAX 40 PNCA § 1215**

**§ 1215. Exempt imports.**

(a) The following imports are exempt imports:

(1) an import by a passenger or a member of a crew of a ship or aircraft of the following:

(A) an amount of alcohol equal to the amount exempted from excise tax under section 2613(1)(B); and

(B) an amount of cigarettes or other tobacco products equal to the amount exempted from the excise tax under section 2613(1)(A);

(2) an import of goods as stores of a ship or aircraft, being goods required for the use of the passengers and crew of the ship or aircraft when on board and while the ship or aircraft is in international traffic in such quantities as approved by the Director;

(3) an import of goods in a single consignment not for commercial use or sale in which the value of the goods does not exceed four hundred dollars (\$400);

(4) an import of goods by a diplomatic or consular mission, or by a diplomat or a member of the diplomat's family forming part of the diplomat's household in the Republic, to the extent required under the Diplomatic Relations Act of 1994, codified at 28 PNC chapter 8;

(5) an import of goods by a foreign government or an international organization to the extent required under:

(A) an agreement between the government of the Republic and a foreign government or international organization for the provision of financial, technical, humanitarian, or administrative assistance to the government; or

(B) the Diplomatic Relations Act of 1994, codified at 28 PNC chapter 8; and

(6) an import of goods if a supply of those goods in the Republic would be an exempt or zero-rated supply as set forth in this chapter.

(b) An import is not an exempt import under subsection (a)(3) if the Director is satisfied that a consignment has been split into two (2) or more consignments for the purposes of taking advantage of subsection (a)(3).

**Source**  
RPPL 11-11 § 2, modified.

**Subchapter III**  
**PGST Registration**

- § 1221. Compulsory application for PGST registration.
- § 1222. Voluntary application for PGST registration.
- § 1223. PGST registration.
- § 1224. Obligations of a registered person.
- § 1225. Cancellation of PGST registration.
- § 1226. Deemed taxable supply on cancellation of PGST registration.

**§ 1221. Compulsory application for PGST registration.**

(a) Subject to subsection (g), a person must apply to the Director for registration for PGST:

(1) at the beginning of any twelve (12) month period, if there are reasonable grounds to expect that, by the end of that twelve (12) month period, the total annual average value of taxable supplies made by the person in the four (4) preceding twelve (12) month periods will exceed the registration threshold set forth in subsection (b);

(2) at the end of any twelve (12) month or lesser period, if, after factoring in the supplies made in that period, the total annual average value of taxable supplies made by the person in the four (4) preceding twelve (12) month periods exceeds the registration threshold set forth in subsection (b); or

(3) if the person is a business enterprise that has been granted a foreign investment approval certificate by the Foreign Investment Board, regardless of whether the person otherwise meets the registration threshold.

(b) The registration threshold is three hundred thousand dollars (\$300,000).

**PALAU GOODS AND SERVICES TAX 40 PNCA § 1221**

(c) In determining whether a person exceeds the registration threshold, the value of the following taxable supplies is ignored:

(1) a taxable supply by way of the sale of a capital asset of the business of the person;

(2) a taxable supply made solely as a consequence of the person selling the whole or a part of the person's business or permanently ceasing to carry on the person's business.

(d) In determining whether a person exceeds the registration threshold, the Director may have regard to the value of taxable supplies made by an associate of the person.

(e) An application for registration by a person under this section must be in the approved form and filed in the prescribed manner within seven (7) days of the person becoming required to apply for registration.

(f) For the purposes of this section, the reference to a taxable supply made by a person includes a supply of imported services made to the person determined on the assumption that the person is already a registered person.

(g) The following persons and businesses are exempt from compulsory application for PGST registration:

(1) a person operating a public or private hospital;

(2) a person operating a public or private medical clinic;

(3) a not-for-profit educational institution;

(4) the Palau Community College;

(5) a government entity, as defined in section 1202(17); and

(6) a nonprofit corporation incorporated under the laws of the Republic.

**Source**

RPPL 11-11 § 2, modified.

**§ 1222. Voluntary application for PGST registration.**

A person who makes or intends to make taxable supplies, but who is not required to apply for compulsory registration under section 1221, may apply, in the approved form filed in the prescribed manner, to the Director, for voluntary registration, but only if the person meets the requirements of section 1223(c).

**Source**  
RPPL 11-11 § 2, modified.

**§ 1223. PGST registration.**

- (a) The Director must register a person who has applied for registration under section 1221 if satisfied that the person was required to apply for compulsory registration.
- (b) If the Director is satisfied that a person who is required to apply for compulsory registration has not done so within the time limit specified in section 1221, then the Director must register the person and the notice of registration may include notification of the penalty payable under section 1286 by the person for the failure to apply for registration.
- (c) The Director must register a person who has applied for voluntary registration under section 1222, but only if satisfied of the following:
  - (1) the person is making, or intends to make, taxable supplies;
  - (2) the person has a fixed location from which the person's business is conducted;
  - (3) if the person has commenced conducting a business, the person:
    - (A) has kept proper records of its business operations; and
    - (B) complied with its obligations in relation to other tax laws imposed under Division 2 of Title 40;
  - (4) there are reasonable grounds to believe that the person will comply with its obligations under this chapter and any regulations promulgated under this chapter, including keeping proper records and filing regular and reliable PGST returns; and

## **PALAU GOODS AND SERVICES TAX 40 PNCA § 1225**

(5) it is reasonably expected that the annual value of taxable supplies made by the person will equal or exceed fifty thousand dollars (\$50,000).

(d) The Director must issue a person registered under this section with a PGST-registration certificate.

(e) The registration of a person under subsection (a) or (b) takes effect from the beginning of the first PGST period after the person was required to apply for registration or such later time as set out in the person's PGST registration certificate. The registration of a person under subsection (c) takes effect from the date set out in the person's PGST registration certificate.

**Source**  
RPPL 11-11 § 2, modified.

### **§ 1224. Obligations of a registered person.**

(a) A registered person must display in a conspicuous place:

- (1) the original copy of its PGST registration certificate at the principal place at which the person conducts business; and
- (2) a certified copy of the certificate obtained from the Director at every other place at which the person conducts business.

(b) A registered person must notify the Director, in writing, of any change in the name, including a business name, address, place of business, or nature of the business of the person within twenty-one (21) days of the change occurring.

**Source**  
RPPL 11-11 § 2.

### **§ 1225. Cancellation of PGST registration.**

(a) A registered person must apply, in the approved form, to the Director to have the person's registration cancelled if the person ceases to carry on business. An application under this subsection must be filed with the Director within seven (7) days of the date on which the person ceased to carry on business.

(b) A registered person may apply, in the approved form, to the Director to have the person's registration cancelled if the average annual value of taxable supplies made or reasonably expected to be made by the person, as measured by the four (4) preceding twelve (12) month periods, does not exceed the registration threshold.

(c) Subject to subsection (d), the Director must, by notice in writing, cancel the registration of a person if any of the following apply:

(1) the person has applied for cancellation of registration under subsection (a) and the Director is satisfied that the person has ceased to carry on business;

(2) the person has applied for cancellation of registration under subsection (b) and the Director is satisfied that the annual value of taxable supplies made or reasonably expected to be made by the person does not exceed the registration threshold; or

(3) the person has not applied for cancellation of registration, but the Director is satisfied that:

(A) the person has ceased to carry on business; or

(B) the annual value of taxable supplies made or that are reasonably expected to be made by the person does not exceed the registration threshold and the person has not kept proper records or filed regular and reliable PGST returns.

(d) If a person has been registered for a period of two (2) years or less, then the Director may cancel the registration of the person only if satisfied that it is appropriate to do so.

(e) The cancellation of the PGST registration of a person takes effect from the date set out in the notice of cancellation. Despite the cancellation of the PGST registration of a person under this section, the person remains liable for any act done or omitted to be done while registered.

(f) If the PGST registration of a person is cancelled under this section, the person must:

(1) immediately cease to hold out that the person is a registered person, including on any documentation used by the person;



**PALAU GOODS AND SERVICES TAX 40 PNCA § 1226**

- (2) file a final PGST return and pay all PGST due, including the PGST due as a result of section 1226, within fifteen (15) days after the date of cancellation of the person's registration; and
- (3) immediately return the person's PGST registration certificate and any certified copies thereof to the Director.

**Source**  
RPPL 11-11 § 2, modified.

**§ 1226. Deemed taxable supply on cancellation of PGST registration.**

- (a) A person whose PGST registration is cancelled is deemed to have made a taxable supply of any inventory and capital assets on hand at the time the registration is cancelled, but only if the person was allowed an input tax credit for the acquisition or import of the inventory and capital assets, or for the acquisition or import of goods that have been subsumed into that inventory and capital assets.
- (b) The taxable supply under subsection (a) in respect of inventory is deemed to have been made by the person immediately before the person's registration is cancelled and the person is deemed to have received, at that time, an amount of output tax equal to the amount of the input tax credit allowed to the person on acquisition or import of the inventory.
- (c) The taxable supply under subsection (a) in respect of a capital asset is deemed to have been made by the person immediately before the person's registration is cancelled and the person is deemed to have received, at that time, an amount of output tax calculated in accordance with the following formula:

$$A \times (5 - B) / 5$$

where:

A is the amount of input tax paid in respect of the acquisition of the capital asset;  
and

B is the number of full years, not exceeding five (5), the capital asset has been owned and used by the person for the purpose of making taxable supplies.

**Source**  
RPPL 11-11 § 2, modified.

**Subchapter IV  
Supplies and Imports**

- § 1231. Mixed supplies.
- § 1232. Time of supply.
- § 1233. Supply of goods in the Republic.
- § 1234. Supply of services in the Republic.
- § 1235. Value of a supply.
- § 1236. Deemed taxable supply on application of goods to private or exempt use.
- § 1237. Value of a supply of imported services.
- § 1238. Time of import.
- § 1239. Value of import.

**§ 1231. Mixed supplies.**

(a) Unless the context requires otherwise:

(1) a supply of a particular kind that is ancillary or incidental to a supply of another kind, referred to as “the principal supply” in this subsection, is treated as part of the principal supply; and

(2) a supply of services that is ancillary or incidental to an import of goods is treated as part of the import of goods.

(b) If a sale of goods under an installment sale agreement involves a credit charge that is specified as a separate charge and disclosed to the recipient of the sale, the sale is treated as two (2) supplies—a supply of goods and a supply of financial services.

**Source**  
RPPL 11-11 § 2.

**§ 1232. Time of supply.**

(a) Subject to this chapter, a supply occurs on the earlier of:

(1) the date on which the invoice for the supply is issued; or

(2) the date on which any payment, including part payment, for the supply is

**PALAU GOODS AND SERVICES TAX 40 PNCA § 1233**

made.

(b) A supply between associates or by way of a gift occurs:

(1) in the case of goods, on the date the goods are delivered; or

(2) in the case of services, on the date the performance of the services is complete.

(c) A supply of goods by means of a vending machine, meter, or other device operated by a coin, note, or token occurs on the date the coin, note, or token is taken from the machine, meter, or other device by or on behalf of the supplier.

(d) A periodic supply:

(1) is treated as a series of separate, successive supplies corresponding to the successive parts of the period of the lease or agreement under which the periodic supply is made, or as determined by law; and

(2) each successive supply is treated as occurring on the earlier of the date on which the payment for the successive supply is due or received.

(e) For the purposes of this section, each of the following is a “periodic supply”:

(1) a supply of goods under an installment sale agreement;

(2) a supply of services by way of a lease of goods (other than a lease covered by paragraph (1)); or

(3) a supply of services supplied progressively under an agreement or law that provides for periodic payments.

**Source**  
RPPL 11-11 § 2.

**§ 1233. Supply of goods in the Republic.**

A supply of goods occurs in the Republic if the goods are delivered or made available in the Republic by the supplier or, if the delivery or making available involves transportation, the goods

are in the Republic when the transportation commences.

**Source**  
RPPL 11-11 § 2.

**§ 1234. Supply of services in the Republic.**

(a) Subject to subsection (b), a supply of services occurs in the Republic if the place of business of the supplier from which the services are supplied is in the Republic.

(b) Notwithstanding subsection (a), a supply of services by a person who does not have a place of business in the Republic occurs in the Republic if the recipient of the supply is not a registered person and:

- (1) the services are physically performed in the Republic by a person who is in the Republic at the time of supply;
- (2) the services are remote services supplied to a resident of the Republic; or
- (3) the services are telecommunications services and the supply is initiated by a person in the Republic at the time of the supply, other than a supply initiated by:
  - (A) a supplier of telecommunications services; or
  - (B) a person who is global roaming while temporarily in the Republic.

(c) For the purposes of subsection (b)(2) and subject to subsection (d), a recipient of a supply of remote services is treated as a resident of the Republic if at least two (2) of the following factors support the conclusion that the person is a resident of the Republic:

- (1) the recipient's billing address;
- (2) the internet protocol address of the device used by the recipient or another geolocation method;
- (3) the recipient's bank details, including the account the recipient uses for payment or the billing address held by the bank;
- (4) the mobile country code of the international mobile subscriber identity stored

**PALAU GOODS AND SERVICES TAX 40 PNCA § 1235**

on the subscriber identity module card used by the recipient;

(5) the location of the recipient's fixed land line through which the service is supplied to the recipient;

(6) any other commercially relevant information.

(d) If there are two (2) factors on the list in subsection (c) supporting that the recipient is a resident of the Republic and two (2) factors supporting residence in another country, the supplier must determine the recipient's residence based on the factors that, in the circumstances, are the most reliable indicators of the recipient's residence.

(e) Having established that the recipient of a supply is a resident of the Republic under subsection (c), a supplier must treat the recipient as not being a registered person unless the recipient:

(1) notifies the supplier, in writing, that they are a registered person; and

(2) provides the supplier with a copy of their PGST registration certificate.

(f) For the purposes of subsection (b)(3), the person who initiates a supply of telecommunications services is the person who appears first as one (1) of the following:

(1) the person who controls the commencement of the supply;

(2) the person who pays for the services;

(3) the person who contracts for the supply; or

(4) the person who the person to whom the invoice for the supply is sent.

**Source**

RPPL 11-11 § 2, modified.

**§ 1235. Value of a supply.**

(a) Subject to this chapter, the value of a supply of goods or services is the price for the supply.

(b) The value of a supply is the fair market value of the supply determined at the time of the supply if:

(1) a taxable supply is made by a registered person to an associate for a price that is less than the fair market value of the supply, including a taxable supply made for a price of zero (0); and

(2) the recipient is not entitled to an input tax credit for the whole or part of the input tax payable in respect of the supply.

(c) Except as provided in this chapter, if no price is charged for a supply, the value of the supply is zero (0).

(d) If a registered person makes a taxable supply without a separate amount being identified as PGST, the value of the supply is computed according to the following formula:

$$A - (A \times B)$$

where:

A is the total amount charged for the supply; and

B is the tax fraction.

(e) If subsection (d) applies to a taxable supply made by a registered person to another registered person, the input tax payable by the registered person receiving the supply is computed by reference to the value of the supply determined under subsection (d).

(f) For the purposes of subsection (d), the “tax fraction” is computed according to the following formula:

$$r / (1+r)$$

where r is the rate of PGST applicable to the supply as determined under section 1211.

**Source**  
RPPL 11-11 § 2, modified.

## **PALAU GOODS AND SERVICES TAX 40 PNCA § 1238**

### **§ 1236. Deemed taxable supply on application of goods to private or exempt use.**

(a) An application of goods by a registered person to a private or exempt use is deemed to be a taxable supply made by the person, but only if the person has been allowed an input tax credit in respect of the acquisition or import of the goods.

(b) A registered person makes a deemed taxable supply under subsection (a) at the time the goods are first applied to private or exempt use. The registered person is deemed to have received, at that time, an amount of output tax equal to the amount of input tax credit allowed to the person in respect of the acquisition or import of the goods.

#### **Source**

RPPL 11-11 § 2, modified.

### **§ 1237. Value of a supply of imported services.**

(a) Subject to subsection (b), the value of a supply of imported services:

(1) if the supplier and recipient are associates, is the fair market value of the supply determined at the time of the supply; or

(2) if subsection (a)(1) does not apply, is the price of the supply.

(b) A registered person liable for PGST under section 1211(a)(2) and section 1211(d) must prepare a recipient-created PGST invoice in the approved form in respect of the supply of imported services to the person.

#### **Source**

RPPL 11-11 § 2, modified.

### **§ 1238. Time of import.**

An import occurs:

(a) if the goods entered into the Republic under the Customs legislation, on the date on which they are so entered; or

(b) in any other case, on the date the goods are brought into the Republic.

**Source**

RPPL 11-11 § 2, modified.

**Notes**

Numbering subsections are re-lettered to conform with the standard code format.

**§ 1239. Value of import.**

(a) Subject to subsection (b), the value of an import of goods is the sum of the following amounts:

- (1) the value of the goods for the purposes of the import tax imposed under the Customs legislation, whether or not any import tax is payable on the import;
- (2) to the extent not included under subsection (a)(1), the cost of services treated as part of the import of the goods under section 1231(a)(2);
- (3) the amount of any import tax, excise tax, levy, or other fiscal charge, other than PGST, or any fee or other charge payable in respect of the import; and
- (4) the cost of all freight, insurance, and other charges associated with the cost of shipment of the goods.

(b) If goods are re-imported after being exported for the purpose of undergoing repair, renovation, or improvement, then the value of the import is the amount of the increase in value of the goods as a result of the repair, renovation, or improvement provided there has been no change in:

- (1) the form or character of the goods; and
- (2) the ownership of the goods since the goods were exported.

**Source**

RPPL 11-11 § 2, modified.



# PALAU GOODS AND SERVICES TAX 40 PNCA § 1241

## Subchapter V Input Tax Credits

- § 1241. Allowance of an input tax credit.
- § 1242. Denial of input tax credit.
- § 1243. Input tax credit for newly registered person.

### **§ 1241. Allowance of an input tax credit.**

- (a) Subject to this chapter, a registered person is allowed a credit for the input tax imposed on a creditable acquisition by the person to the extent that the acquisition was for the purpose of making taxable supplies as determined at the time of the acquisition. Subject to subsection (b), an input tax credit is allowed in the PGST period in which the input tax is paid.
- (b) If, at the time a registered person files a PGST return for a PGST period in which an input tax credit would otherwise be allowable under this chapter, the person does not hold the documentation referred to in subsection (c), then the input tax credit is not allowed in that PGST period but instead is allowed in the first PGST period in which the person holds such documentation.
- (c) The documentation required for the purposes of subsection (b) is the following:
  - (1) in the case of a creditable acquisition that is a taxable import, a bill of entry or other similar document required under the Customs legislation for the import;
  - (2) in the case of a creditable acquisition that is a taxable supply, the PGST invoice for the taxable supply to which the acquisition relates;
  - (3) in the case of a creditable acquisition that is a supply of imported services, the recipient-created PGST invoice for the supply as required under section 1237(b);
  - (4) in the case of an input tax credit allowed in respect of input tax referred to in section 1251(b), the debit note required to be issued under section 1272; and
  - (5) in the case of an input tax credit allowed under section 1251(c), a copy of the credit note issued to the recipient of the supply under section 1272.

**Source**

RPPL 11-11 § 2, modified.

**§ 1242. Denial of input tax credit.**

(a) No input tax credit is allowed under this chapter for input tax paid in respect of the following:

(1) a creditable acquisition by a registered person to the extent that the acquisition is used to provide entertainment, unless one of the following applies:

(A) the entertainment is provided in the ordinary course of the business carried on by the person to provide the entertainment and the entertainment is not supplied to an associate or employee; or

(B) the entertainment is provided while the recipient of the entertainment is away from home for the purposes of the business of the recipient or the recipient's employer; or

(2) a creditable acquisition of a membership or right of entry for any person in a club, association, or society of a sporting, social, or recreational nature.

(b) A registered person who does not have a place of business in the Republic is not allowed input tax credits in relation to the making of taxable supplies.

**Source**

RPPL 11-11 § 2, modified.

**§ 1243. Input tax credit for newly registered person.**

(a) Subject to this chapter, a registered person may claim, in the first PGST return filed by the person after becoming registered, an input tax credit determined in accordance with sections 1241 and 1242 for the input tax paid in respect of inventory held at the date of registration for the purpose of making taxable supplies, if the following conditions are satisfied:

(1) at the end of the last day before the date of the person's registration, the person held the goods as inventory;

## PALAU GOODS AND SERVICES TAX 40 PNCA § 1251

- (2) the inventory was acquired by the person in a creditable acquisition;
  - (3) the acquisition occurred no more than four (4) months prior to the date of registration; and
  - (4) the person can provide documentary evidence satisfactory to the Director that input tax has been paid in respect of the acquisition.
- (b) Section 1241(b) does not apply for the purposes of an input tax credit allowed under this section.

**Source**  
RPPL 11-11 § 2, modified.

### **Subchapter VI** **Post-supply Adjustments**

§ 1251. Post-supply adjustments.

#### **§ 1251. Post-supply adjustments.**

- (a) If an adjustment event occurs in relation to a taxable supply and the PGST properly chargeable in respect of the supply exceeds the PGST actually accounted for by the supplier, then the excess is deemed to be output tax received by the supplier in the PGST period in which the event occurred.
- (b) If subsection (a) applies and the supplier has issued a debit note to the recipient of the supply in accordance with section 1272, then the recipient is allowed an input tax credit for the additional PGST specified in the debit note in the PGST period in which the debit note is received.
- (c) Subject to subsection (e), if an adjustment event occurs in relation to a taxable supply and the PGST actually accounted for by the supplier exceeds the PGST properly chargeable in respect of the supply, then the supplier is allowed an input tax credit for the amount of the excess in the PGST period in which the event occurred.
- (d) If subsection (c) applies and the supplier has issued a credit note to the recipient of the supply in accordance with section 1272, then the additional PGST specified in the

credit note is deemed to be output tax received by the recipient in the PGST period in which the credit note is received.

(e) If the recipient of a supply to which subsection (c) applies is not a registered person, then no input tax credit is allowed under that subsection until the supplier has repaid the excess PGST to the recipient of the supply, regardless of whether such excess PGST is repaid in cash or as a credit against any amount owing to the supplier by the recipient.

(f) The following are adjustment events for the purposes of this section:

- (1) the cancellation of a supply;
- (2) a fundamental alteration in the nature of a supply;
- (3) a change in the price of a supply; and
- (4) the return of goods, or part thereof, which are the subject of a supply to the supplier.

**Source**

RPPL 11-11 § 2, modified.

**Subchapter VII**

**Computation of the Net PGST Payable for a PGST Period and Refunds**

§ 1261. Net PGST payable for a PGST period.

§ 1262. Refunds.

§ 1263. Diplomatic missions and international agreements.

**§ 1261. Net PGST payable for a PGST period.**

The net PGST payable by a registered person for a PGST period is computed according to the following formula:

$$(A + B) - C$$

where:

## PALAU GOODS AND SERVICES TAX 40 PNCA § 1262

A is the total output tax received or deemed to have been received by the person during the PGST period in respect of taxable supplies made by the person;

B is the total PGST that the registered person is liable for under section 1211 in respect of supplies of imported services made to the person during the PGST period; and

C is the total input tax credit allowed to the person for the PGST period under this chapter.

### Source

RPPL 11-11 § 2, modified.

### § 1262. Refunds.

(a) Subject to subsection (c), if, for any PGST period of a registered person, component “C” of the formula in section 1261 exceeds component “(A + B)” for the PGST period, then the following shall apply:

(1) the excess is carried forward and allowed to the person as an input tax credit in the next following PGST period and any amount of the excess not credited in the PGST period is carried forward to the next following PGST period and allowed to the person as an input tax credit in that PGST period; and

(2) any amount of the excess not credited under subsection (a)(1) is, upon written application by the person in the approved form, to be refunded to the person within thirty (30) days after the person has filed the application for a refund.

(b) If a registered person has an excess input tax credit carried forward under this section for more than one (1) PGST period, then the excess credit of the earliest PGST period is allowed first.

(c) If the excess referred to in subsection (a) is due to excess input tax credits that are a regular feature of the business of a registered person, then the Director must, upon written application in the approved form, refund the excess within thirty (30) days after the person has filed the application for the refund.

(d) An application for a refund under this section must be filed with the Director:

- (1) for a refund under subsection (a)(2), within one (1) year after the end of the second PGST period after filing the return to which the refund relates; or
- (2) for a refund under subsection (c), within one (1) year after filing the PGST return to which the refund relates.

**Source**

RPPL 11-11 § 2, modified.

**§ 1263. Diplomatic missions and international agreements.**

(a) The Director may authorize, subject to such conditions and restrictions as the Director considers appropriate, the granting of a refund of part or all the PGST paid in relation to a taxable supply made to:

(1) a diplomatic or consular mission, or a diplomat or consular official enjoying full or limited immunity, rights, or privileges under the Diplomatic Relations Act of 1994, codified at 28 PNC chapter 8, to the extent required under that Act; or

(2) a foreign government or international organization to the extent required under:

(A) an agreement between the government of the Republic and the foreign government or international organization for the provision of financial, technical, humanitarian, or administrative assistance to the Republic; or

(B) the Diplomatic Relations Act, codified at 28 PNC chapter 8.

(b) An application for a refund under subsection (a) must be:

(1) made in the approved form and in the prescribed manner within two (2) months after the time of the taxable supply to which the application relates or within such further time as the Director may allow; and

(2) accompanied by such supporting documentation as the Director may require, including but not limited to:

(A) evidence that the PGST for which the refund is sought was paid; and

## PALAU GOODS AND SERVICES TAX 40 PNCA § 1272

(B) evidence of the applicant's entitlement to make an application under subsection (a).

### Source

RPPL 11-11 § 2, modified.

### Subchapter VIII PGST Documentation

- § 1271. PGST invoices.
- § 1272. Credit and debit notes.
- § 1273. PGST documentation issued by or to agents.
- § 1274. Requests for PGST documentation.
- § 1275. Maintenance of PGST documentation.
- § 1276. PGST-inclusive pricing of taxable supplies to non-registered persons.

#### § 1271. PGST invoices.

(a) Subject to subsection (b), a registered person making a taxable supply to another registered person must, at the time of supply, issue that other person with the original PGST invoice, in the approved form, for the supply.

(b) A registered person who makes a supply of imported services subject to PGST under section 1211(a)(2) must not provide a PGST invoice to the recipient of the supply.

### Source

RPPL 11-11 § 2, modified.

#### § 1272. Credit and debit notes.

(a) A registered person, referred to as “the supplier” in this subsection, making a taxable supply to another registered person, referred to as “the recipient” in this subsection, must provide the recipient with a credit note, in the approved form, in respect of the supply, if the following conditions are satisfied:

- (1) the supplier has issued an original PGST invoice in respect of the supply to the recipient;

(2) section 1251 applies to the supply; and

(3) the amount shown on the PGST invoice as the PGST charged for the supply exceeds the PGST properly chargeable for the supply.

(b) A registered person, referred to as “the supplier” in this subsection, making a taxable supply to another registered person, referred to as “the recipient” in this subsection, must provide the recipient with a debit note, in the approved form, in respect of the supply, if the following conditions are satisfied:

(1) the supplier has issued an original PGST invoice in respect of the supply to the recipient;

(2) section 1251 applies to the supply; and

(3) the PGST properly chargeable in respect of the supply exceeds the amount shown on the PGST invoice as the PGST charged.

**Source**

RPPL 11-11 § 2, modified.

**§ 1273. PGST documentation issued by or to agents.**

(a) If a taxable supply is made by or to an agent on behalf of a principal and both the agent and principal are registered persons, any PGST invoice, credit note, or debit note required to be issued by or to the principal, may be issued by or to the agent, using the name, address, and taxpayer identification number of the agent.

(b) If a taxable supply is made by or to an agent on behalf of a principal and the principal is a registered person but the agent is not, any PGST invoice, credit note, or debit note required to be issued by or to the principal, may be issued by or to the agent, but using the name, address, and taxpayer identification number of the principal.

(c) If a taxable supply is made by or to an agent on behalf of a principal, any PGST invoice, credit note, or debit note required to be issued may be issued once only and must not be issued by or to both the agent and the principal.

(d) For the purposes of this chapter, a PGST invoice, credit note, or debit note issued by or to an agent in accordance with this section is treated as issued by or to the principal.



## PALAU GOODS AND SERVICES TAX 40 PNCA § 1275

**Source**  
RPPL 11-11 § 2.

### § 1274. Requests for PGST documentation.

- (a) A registered person who, for any reason, has not been issued with an original PGST invoice, credit note, or debit note as required under this chapter may make a written request to the supplier to issue the document.
- (b) A request under subsection (a) must be made:
  - (1) in the case of a PGST invoice, within sixty (60) days of the time of supply to which the PGST invoice relates; or
  - (2) in the case of a credit note or debit note, within sixty (60) days of the date of the adjustment event to which the credit note or debit note relates.
- (c) A registered person receiving a request under subsection (b) must comply with the request within fourteen (14) days of receiving the request.

**Source**  
RPPL 11-11 § 2, modified.

### § 1275. Maintenance of PGST documentation.

- (a) A registered person may issue only one (1) original PGST invoice for a taxable supply, or one (1) original credit note or debit note for an adjustment event, but a copy clearly marked as such may be provided to a registered person who claims to have lost the original.
- (b) A person must not issue a PGST invoice, credit note, or debit note other than in the circumstances specified in this chapter.
- (c) The following documents must be kept by a registered person for the purposes of this chapter:
  - (1) the original, or copies issued under subsection (a), of all PGST invoices, credit notes, and debit notes received by the person;

- (2) a copy of all PGST invoices, credit notes, and debit notes issued by the person;
  - (3) documentation relating to imports and exports of goods by the person; and
  - (4) any recipient-created PGST invoices in respect of supplies of imported services received by the person.
- (d) The documents referred to in subsection (c)(2) must be maintained in chronological order.

**Source**

RPPL 11-11 § 2, modified.

**§ 1276. PGST-inclusive pricing of taxable supplies to non-registered persons.**

Notwithstanding section 1205(a)(4), a registered person making a taxable supply to a person who is not a registered person must state that the price for the supply is inclusive of PGST and must:

- (a) display a sign in a prominent location on the business premises, or disclose prominently on its invoices that taxable supplies are made inclusive of PGST; and
- (b) disclose prominently on its invoice for a supply that the supply is a taxable or exempt supply and, if a taxable supply, the rate of PGST charged.

**Source**

RPPL 11-11 § 2, modified.

**Notes**

Numbering sections are re-lettered to comply with the code format.

# PALAU GOODS AND SERVICES TAX 40 PNCA § 1283

## Subchapter IX PGST Procedure

- § 1281. PGST returns.
- § 1282. Due date for payment of PGST.
- § 1283. Collection of PGST on imports.
- § 1284. PGST representatives.
- § 1285. Assessment of recipient of a supply.
- § 1286. Penalty for failure to apply for registration or properly provide PGST invoice, credit note, or debit note.
- § 1287. Offenses.

### § 1281. PGST returns.

A registered person must file a PGST return, in the approved form and prescribed manner, for each PGST period within thirty (30) days after the end of the PGST period.

**Source**  
RPPL 11-11 § 2.

### § 1282. Due date for payment of PGST.

- (a) The net PGST payable by a registered person for a PGST period, as computed under section 1261, is payable by the due date for filing the PGST return for that PGST period.
- (b) The PGST payable by an importer in respect of a taxable import is payable at the time of import.

**Source**  
RPPL 11-11 § 2, modified.

### § 1283. Collection of PGST on imports.

- (a) The Director:
  - (1) must collect PGST payable under this chapter on a taxable import at the time of import and must, at that time, obtain the name and tax identification number, if any, of the importer, the customs declaration, and invoice values in respect of the

import; and

(2) may make arrangements for the function referred to in subsection (a)(1) to be performed on behalf of the Director by the Postmaster in respect of imports made through the postal service.

(b) Except when a contrary intention appears, the provisions of the Customs legislation relating to the import, transit, coastwise carriage, clearance of imported goods, forfeiture of goods, review of assessment of import tax, and the payment and recovery of import tax, in so far as relevant and with such exceptions and modifications as necessary, apply in relation to the PGST payable on a taxable import.

(c) For the purposes of this section, the Director may exercise any power conferred on the Director by the Customs legislation as if the reference to import tax in that legislation included a reference to PGST payable on a taxable import under this chapter.

**Source**

RPPL 11-11 § 2, modified.

**§ 1284. PGST representatives.**

(a) If required to do so by the Director, a person who is required to apply for registration under section 1221 but who does not conduct business through a fixed place in the Republic must do either or both of the following:

- (1) appoint a PGST representative in the Republic;
- (2) lodge security with the Director.

(b) A PGST representative appointed under subsection (a) is responsible for doing all things required under this chapter of the person they represent, including applying for registration, filing PGST returns, and paying PGST.

(c) The registration of a PGST representative must be made in the name of the person they represent.

(d) A person may be a PGST representative for more than one (1) person but must have a separate registration for each person they represent.

## PALAU GOODS AND SERVICES TAX 40 PNCA § 1285

(e) The PGST representative of a person under this section is personally liable for any PGST liability, including late payment interest and penalty in relation to that liability, that the person they represent fails to pay by the due date.

(f) The Director may specify the mode, manner, and requirements for appointment of a PGST representative and the responsibilities of the representative.

### Source

RPPL 11-11 § 2, modified.

### § 1285. Assessment of recipient of a supply.

(a) The Director may assess the recipient of a supply for payment of the PGST due in respect of the supply, and for any late payment interest and penalty imposed as a result of the incorrect treatment of the supply, if a registered person has, in consequence of misrepresentation or fraud by the recipient of the supply, incorrectly treated the supply as either:

(1) an exempt supply; or

(2) a zero-rated supply.

(b) The Director shall serve a notice of an assessment under subsection (a) on the recipient. The content of this notice shall be as established by regulation.

(c) Subsections (a) and (b) do not preclude the Director from recovering the whole or part of the PGST due in respect of the supply together with any late payment interest and penalty from the registered person who made the supply and:

(1) any amount recovered from the recipient of the supply is credited against the liability of the supplier in respect of the supply; and

(2) any amount recovered from the supplier is credited against the liability of the recipient of the supply.

(d) The Director may not recover more than the total amount of PGST, late payment interest, and penalty payable in relation to the supply under subsection (c).

(e) Any supplier who pays PGST, late payment interest, or penalty referred to in

subsection (a) may recover the amount from the recipient of the supply.

(f) Nothing in Title 40 or accompanying regulations limits the power of the Director to amend an assessment, including a self-assessment, of the registered person making the supply to give effect to subsection (c).

**Source**

RPPL 11-11 § 2, modified.

**§ 1286. Penalty for failure to apply for registration or properly provide PGST invoice, credit note, or debit note.**

(a) A person who, without a reasonable excuse, fails to apply for registration as required by section 1221 is liable for a penalty equal to one hundred twenty five percent (125%) of the amount of PGST payable for the period:

(1) commencing on the day on which the person was first required to apply for registration; and

(2) ending on the earlier of the day the person files an application for registration or the person is registered by the Director on the Director's own motion.

(b) A registered person who, without reasonable excuse, fails to provide a PGST invoice, credit note, or debit note as required in section 1271 or 1272 is liable for a penalty equal to five hundred dollars (\$500).

(c) A person who, without reasonable excuse, issues a PGST invoice, credit note, or debit note otherwise than as provided for in section 1271 or 1272 is liable for a penalty equal to five hundred dollars (\$500).

**Source**

RPPL 11-11 § 2, modified.

**§ 1287. Offenses.**

(a) The following constitute offenses under this chapter and upon conviction a person is liable for a fine not exceeding ten thousand dollars (\$10,000), or to a term of imprisonment not exceeding five (5) years, or both:

## **PALAU GOODS AND SERVICES TAX 40 PNCA § 1287**

- (1) A person fails to apply for registration as required by section 1221.
- (2) A person applies for cancellation of registration when still required to be registered.
- (3) A person fails to apply for cancellation of registration as required by section 1225(a).
- (4) A person fails to comply with sections 1224, 1225(f)(1), 1225(f)(3), or 1276.
- (5) A person fails to provide a PGST invoice, credit note, or debit note as required under this chapter.
- (6) A person issues a PGST invoice, credit note, or debit note otherwise than as required under this chapter.
- (7) A person fails to comply with a request under section 1274.
- (8) A person fails to appoint a PGST representative as required under section 1284.
- (9) A person, without authorization, enters a place where goods subject to PGST are under Customs control under the Customs legislation.
- (10) A person is involved in the unauthorized removal, alteration, or interference with goods subject to PGST that are under Customs control under the Customs legislation.
- (11) A person knowingly smuggles, unlawfully conveys, or has in the person's possession any smuggled goods subject to PGST.
- (12) A person knowingly offers for sale goods that are the fruit of a criminal enterprise, smuggled into the Republic, or are unlawfully imported goods that are subject to PGST.
- (13) A person knowingly receives goods that are the fruit of a criminal enterprise, smuggled into the Republic, or have otherwise been unlawfully imported that are subject to PGST.

(b) If any person manufactures a false PGST registration certificate, invoice, credit note, or debit note, then that person is, upon conviction, liable for a fine of no less than one thousand dollars (\$1,000) but no more than five thousand dollars (\$5,000), a term of imprisonment not exceeding five (5) years, or both.

(c) If a penalty has been imposed under section 1286 and the Director commences a prosecution under this section for the same failure, then the penalty will be refunded and is not payable unless the prosecution is withdrawn.

**Source**

RPPL 11-11 § 2, modified.

**Subchapter X  
Miscellaneous Provisions**

§ 1291. Branches and divisions.

§ 1292. Tax avoidance schemes.

§ 1293. Currency translation.

§ 1294. Prevention of price exploitation on introduction of PGST.

§ 1295. Interim change in PGST rate.

§ 1296. Regulations.

§ 1297. Transitional input tax credit.

§ 1298. Gross Revenue Tax on certain non-registered persons.

§ 1299. Skilled labor gross revenue tax relief; Business tax refund.

**§ 1291. Branches and divisions.**

(a) A business conducted by a person in branches or divisions is treated as a single business for the purposes of this chapter.

(b) A person who conducts a business in branches or divisions must be registered in the name of the person and not in the names of the branches or divisions.

**Source**

RPPL 11-11 § 2.



## **PALAU GOODS AND SERVICES TAX 40 PNCA § 1292**

### **§ 1292. Tax avoidance schemes.**

- (a) Subsections (b) and (c) apply if the Director is satisfied that:
- (1) a scheme has been entered into or carried out;
  - (2) a person has obtained a tax benefit in connection with the scheme; and
  - (3) having regard to the substance of the scheme, it would be concluded that a person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person to obtain the tax benefit referred to in paragraph (2).
- (b) If the Director is satisfied of the matters specified in subsection (a), then the Director must determine the PGST liability of the person who obtained the tax benefit and of any other person related to the scheme as if the scheme had not been entered into or carried out.
- (c) If a determination is made under subsection (b), then the Director must serve a notice or notices of assessment to give effect to the determination on the person or persons whose PGST liability is affected by the determination.
- (d) A determination under subsection (b) must be made within six (6) years from the last day of the PGST period to which the determination relates.
- (e) The following constitute a tax benefit for the purposes of this section:
- (1) a reduction in the liability of a person to pay PGST;
  - (2) an increase in the entitlement of a person to an input tax credit;
  - (3) an entitlement to a refund of PGST;
  - (4) a postponement of a liability for the payment of PGST;
  - (5) an acceleration of an entitlement to an input tax credit;
  - (6) any other advantage arising because of a delay in payment of PGST or an acceleration of the entitlement to an input tax credit;

(7) anything that causes a taxable supply, taxable import, or supply of imported services not to be a taxable supply, taxable import, or supply of imported services, as the case may be; or

(8) anything that gives rise to an input tax credit entitlement for an acquisition or import that is used or is to be used other than in making taxable supplies.

**Source**

RPPL 11-11 § 2, modified.

**§ 1293. Currency translation.**

(a) An amount taken into account under this chapter is expressed in United States dollars.

(b) Subject to subsection (c), if any amount is expressed in a currency other than United States dollars, then:

(1) in the case of an import of goods, the amount is converted into United States dollars at the exchange rate applicable under the Customs legislation for the purposes of computing the import tax that is due on the import; or

(2) in any other case, the amount is converted into United States dollars at the United States Federal Reserve mid-exchange rate applicable between the foreign currency and United States dollars on the date the amount is taken into account for the purposes of this chapter.

(c) A supplier of remote services to which section 1234(b)(2) applies may choose to convert foreign currency amounts to United States dollars:

(1) in accordance with subsection (b)(2);

(2) on the last day of the relevant PGST period; or

(3) on such other basis as agreed with the Director.

(d) A supplier of remote services may not revoke an election made under subsection (c) until at least one (1) year after making the election unless the Director agrees otherwise.

## **PALAU GOODS AND SERVICES TAX 40 PNCA § 1294**

**Source**  
RPPL 11-11 § 2, modified.

### **§ 1294. Prevention of price exploitation on introduction of PGST.**

(a) Subject to subsection (b), it is an offense and upon conviction a person is liable for a fine not exceeding ten thousand dollars (\$10,000) for the first breach of this subsection and a fine not exceeding twenty thousand dollars (\$20,000) for the second and each subsequent breach, for a person to make a regulated supply for a price that is excessive having regard to the following:

- (1) the introduction of this chapter;
- (2) changes in the rate of import tax or any other tax as a result of the introduction of this chapter;
- (3) the person's costs;
- (4) supply and demand conditions; and
- (5) any other relevant matter.

(b) It is a defense to an offense under subsection (a) if:

- (1) the contravention was due to reasonable mistake; and
- (2) the person took reasonable precautions and exercised due diligence to avoid contravention of subsection (a).

(c) The Director may publish guidelines about when prices for regulated supplies may be in contravention of subsection (a).

(d) A supply is a regulated supply for the purposes of this section if the supply occurs in the period commencing six (6) months before and ending one (1) year after the commencement date.

**Source**  
RPPL 11-11 § 2, modified.

**§ 1295. Interim change in PGST rate.**

- (a) The Minister may increase or decrease the rate of PGST under section 1211(b)(2) by not more than two (2) percentage points.
- (b) An increase or decrease in the PGST rate under subsection (a) shall lapse six (6) months after the date of application unless, within that time, the Olbiil Era Kelulau passes legislation to give effect to the change.
- (c) Where an increase or decrease in the PGST rate lapses under subsection (b), the increased or decreased rate applies for the period of its application before lapsing.

**Source**

RPPL 11-11 § 2, modified.

**§ 1296. Regulations.**

The Minister of Finance may promulgate any regulations that are necessary to give effect to this chapter, particularly with respect to supplies and input tax credits.

**Source**

RPPL 11-11 § 2.

**§ 1297. Transitional input tax credit.**

- (a) Subject to subsection (d), a registered person may claim an input tax credit for the import tax in the first PGST period after the commencement date, if:
- (1) the registered person held goods as inventory at the end of the last day before the commencement date;
  - (2) the goods were acquired not more than four (4) months before the beginning of that day; and
  - (3) the Director is satisfied that the registered person paid import tax on the acquisition of the goods by import.
- (b) The input tax credit under subsection (a) is allowed before any other input tax credit allowed to the person for the first PGST period after the commencement date.

## PALAU GOODS AND SERVICES TAX 40 PNCA § 1299

(c) If the input tax credit allowed under subsection (a) has not been fully credited in the first PGST period after the commencement date, the amount that has not been credited is dealt with in accordance with section 1262(a).

(d) A registered person is not allowed an input tax credit under subsection (a) for any import tax paid in respect of the acquisition of goods by import to the extent that the person would not have been allowed an input tax credit if the import had occurred on or after the commencement date.

(e) A registered person claiming an input tax credit under subsection (a) for inventory on hand at the end of the last day before the commencement date must submit a list of such inventory with the person's first PGST return, supported by documentary evidence of the payment of import tax in respect of the inventory.

### Source

RPPL 11-11 § 2, modified.

### § 1298. Gross Revenue Tax on certain non-registered persons.

Except as otherwise provided by law, every non-PGST-registered person engaging in any business with an annual gross income exceeding fifty thousand dollars (\$50,000) shall be assessed and levied and shall pay a tax of four percent (4%) of the gross revenues of the business, provided that the entire amount paid in salaries to citizens who are residents of the Republic shall be subtracted from the gross revenues before assessing the tax under this section; and further provided that the amount paid in salary to resident workers or nonresident workers, as those terms are defined in Title 13, up to a maximum of five thousand dollars (\$5,000) per quarter, shall be subtracted from the gross revenues before assessing the tax under this section. Any person subject to this section shall make and file, on or before the thirtieth day following the close of each quarter, a return based on its revenues for the previous quarter. A remittance covering the full amount of tax liability as evidenced by the quarterly return shall accompany the return.

### Source

RPPL 11-11 § 2.

### § 1299. Skilled labor gross revenue tax relief; Business tax refund.

(a) In order to encourage Palau's skilled labor industries to employ more Palauan citizens, a person subject to the tax imposed under section 1298 shall be entitled to a

temporary gross revenue tax benefit as follows:

(1) Amount of Tax Relief:

(A) From January 1, 2023 to December 31, 2024, an employer may subtract an amount that is double the salary of citizen employees of the employer who possess vocational certificates from Palau Community College before assessing the tax levied under section 1298 of this Title.

(B) From January 1, 2025 to December 31, 2025, an employer may subtract an amount that is one hundred seventy five percent (175%) the salary of citizen employees of the employer who possess vocational certificates from Palau Community College before assessing the tax levied under section 1298 of this Title.

(C) From January 1, 2026 to December 31, 2026, an employer may subtract an amount that is one hundred fifty percent (150%) the salary of citizen employees of the employer who possess vocational certificates from Palau Community College before assessing the tax levied under section 1298 of this Title.

(D) From January 1, 2027 to December 31, 2029, an employer may subtract an amount that is one hundred twenty five percent (125%) the salary of citizen employees of the employer who possess vocational certificates from Palau Community College before assessing the tax levied under section 1298 of this Title.

(2) If an employer chooses to claim the Skilled Labor Gross Revenue Tax Relief under this section, then the subtraction of citizen employee salaries in section 1298 of this Title shall not apply.

(b) If a taxpayer files with the Director a verified receipt indicating financial contributions made during the tax year by such taxpayer to the Our Ocean Conference 2020 Fund, the Palau Community College, or a nonprofit corporation which meets requirements set out in regulation, then the Director shall refund such amounts within ninety (90) days after the end of the tax year; provided that the amount of such refund shall not exceed ten percent (10%) of the gross revenue taxes paid by the taxpayer in that tax year pursuant to section 1298. Eligibility for any refund shall be determined in accordance with this subsection and with regulations promulgated by the Minister of

**PALAU GOODS AND SERVICES TAX 40 PNCA § 1299**

Finance pursuant to the Administrative Procedure Act, 6 PNC chapter 1.

**Source**  
RPPL 11-11 § 2, modified.

**Chapter 13  
Import Tax**

- § 1301. Imposition of import tax.
- § 1302. Refund.
- § 1303. Entry of imports.
- § 1304. Entry documents.
- § 1305. Import tax; general application; interpretation.
- § 1306. Exemptions.
- § 1307. Allocation of alcoholic beverage tax revenues for healthcare-related costs. [repealed]
- § 1308. Non-Communicable Diseases Fund.
- § 1309. Restrictions on import of certain vehicles.

**§ 1301. Imposition of import tax.**

- (a) Every person who imports goods into the Republic shall be assessed and levied, and must pay, import tax at the rate specified in subsection (b).
- (b) The rate of import tax is zero (0) percent.

**Source**

RPPL 1-63 § 401. Amended by RPPL 3-34 § 20, 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. Amended by RPPL 6-12 § 28 and RPPL 6-35 § 5. Subsection (a)(11) recodified as subsection (a)(12) and a new subsection (a)(11) was added by RPPL 6-37 § 24. Subsection (a)(11) is amended by RPPL 7-53 § 10, modified. Subsection (a) is amended by RPPL 9-7 § 1, modified. Subsections (a)(1) and (a)(2) are repealed by RPPL 9-15 § 25. Section 1301 is repealed in its entirety and replaced by RPPL 11-11 § 13.

**Notes**

RPPL 9-7 § 2 reads: Regulations. The Director of the Bureau of Revenue, Customs and Taxation shall, pursuant to the requirements of the Administrative Procedure Act, 6 PNC Chapter 1, promulgate rules and regulations implementing Section 1 of this Act.

Section 3 of RPPL 6-42 reads: "A state government is not a 'person' subject to import taxation as that term is used in 40 PNC 1301(a)."

**§ 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 forty-eight (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 forty-eight (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.

**§ 1305. Import tax; general application; interpretation.**

A sale, use, manufacture, lease, or rental of goods, commodities, resources, or merchandise is, for purposes of this section, the first sale, use, manufacture, lease, or rental of goods, commodities, resources, or merchandise in the Republic if it is so in fact, or if the goods, commodities, resources, or merchandise were previously exempt from taxation on account of their sale, use, manufacture, lease, or rental within or into a free trade zone and further sale, use, manufacture, lease, or rental occurs within the Republic to or outside a free trade zone, or if the goods, commodities, resources, or merchandise, although previously taxed under this section, have lost their identity on account of manufacturing, remanufacturing, processing, reprocessing, production, assembly, or other activity within a free trade zone.

**Source**

RPPL 6-40 § 27(a)[1305].

**§ 1306. Exemptions.**

- (a) The following are exempt from the import tax imposed pursuant to section 1301:
- (1) capital equipment, machinery, spare parts, and other items brought into a free

trade zone and used to operate facilities located within the zone(s) pursuant to an exemption granted by the Free Trade Zone Authority, to the extent (amount and duration, which shall not exceed ten (10) years) prescribed by such exemption;

(2) raw materials and other goods, except if they enter the Palau customs territory, brought into a free trade zone for incorporation into products produced or assembled within the free trade zone, to the extent (amount; and duration, which shall not exceed ten (10) years) of an exemption granted by the Free Trade Zone Authority; provided, that this exemption shall not apply to consumable supplies used in the course of ordinary business operations or to construction materials;

(3) domestic articles on which an import tax has previously been paid, re-entering the Palau customs territory from a free trade zone, to the extent of the tax previously paid; provided that no exemption shall be allowed if, in the opinion of the Minister, the domestic articles have lost their identity.

(b) The Minister may prescribe regulations to exempt any other goods, commodities, resources, or merchandise from taxation under this chapter. The Minister may prescribe regulations for the supervision and identification of goods sent into a free trade zone from the customs territory.

**Source**

RPPL 6-40 § 27(b), modified.

**§ 1307. Allocation of alcoholic beverage tax revenues for healthcare-related costs.  
[repealed]**

**Source**

RPPL 9-57 § 2, modified. Subsection (c) is added by RPPL 10-37 § 5, modified. Subsection (b) amended by RPPL 10-42 § 25. Repealed by RPPL 11-11 § 17.

**Notes**

Amendment by RPPL 10-37 § 5 allocated another percentage of tax revenue derived from alcoholic beverages to non-healthcare related costs (Palau Livestock Fund), and amended the section title to reflect this by removing the reference to healthcare related costs, becoming "Allocation of alcoholic beverage tax revenues." RPPL 10-42 § 25 amendment to healthcare related costs in subsection (b) also amended the title back to the original title "Allocation of alcoholic beverage tax revenues for health care-related costs", even though subsection (c) added by RPPL 10-37 has not been repealed.

**§ 1308. Non-Communicable Diseases Fund.**

(a) There is established within the National Treasury a permanent Non-Communicable Diseases Fund (“Fund”). The purpose of this fund is to support the efforts of the National Coordinating Mechanism for Non-Communicable Diseases (“Mechanism”), established by Executive Order 379, to prevent non-communicable diseases. The Fund is reserved for programs selected by the National Coordinating Mechanism for Non-Communicable Diseases and may only be appropriated and disbursed in accordance with subsections (b) and (c). The fund is non-lapsing.

(b) In order to access the Fund through the annual national budget, the National Coordinating Mechanism for Non-Communicable Diseases must submit a proposed operating budget in accordance with chapter 3 of Title 40. The proposed operating budget must include a description of the programs the National Coordinating Mechanism for Non-Communicable Diseases intends to fund along with the amount to be allocated to each program and how each program supports the National Coordinating Mechanism for Non-Communicable Diseases’ strategic plan.

(c) In order to access the fund outside of the annual national budget, the National Coordinating Mechanism for Non-Communicable Diseases must submit a request to the Olbiil Era Kelulau containing the same information required in subsection (b).

**Source**

RPPL 9-57 § 4, modified. Amended in its entirety by RPPL 10-9 § 8, modified. Amended by RPPL 11-8 § 2[33].

**Notes**

RPPL 9-57 § 4 was designated as § 1308 of chapter 13 of Title 40 of the Palau National Code as per Code Commission.

**§ 1309. Restrictions on import of certain vehicles.**

No person may import into the Republic of Palau any motor vehicle, as defined in 42 PNC § 101(f), without safety belts unless the motor vehicle is a motorcycle, motor scooter, motor bike, all-terrain vehicle, construction vehicle, or a vehicle manufactured before 1967.

**Source**

RPPL 11-9 § 4.

**Chapter 14  
Other Taxes**

**Subchapter I  
Miscellaneous Taxes**

- § 1401. Hotel room and vessel cabin occupancy tax.
- § 1402. Amusement device tax.
- § 1403. Departure tax.
- § 1404. Road use tax.
- § 1405. Foreign water vessel tax.
- § 1406. Fish export tax.
- § 1407. Landing fee for transshipment at port of tuna or billfish.
- § 1408. Remittance tax.
- § 1409. Land transaction proceeds fee.

**§ 1401. Hotel room and vessel cabin occupancy tax.**

(a) A room tax of ten dollars (\$10) or ten percent (10%) of the room rate or vessel cabin rate, whichever is greater, per room or per vessel cabin, is hereby levied and imposed against transient occupants of a room in a hotel, motel, lodging house, or similar facility located in the Republic; in addition, such tax shall also apply against any transient occupants of a cabin on ship or other water vessel owned or operated by persons or business entities licensed to do business in the Republic.

(b) The tax imposed pursuant to subsection (a) shall not be assessed on each transient occupant; rather, the tax shall be assessed per room or per cabin, per day, for every day that the room or cabin is occupied by at least one transient. If the room or cabin is rented more than once within a twenty-four hour period, each time of occupancy shall be subject to the tax for such accommodation.

(c) Every hotelkeeper doing business in the Republic, and every owner or operator of a ship or water vessel whose customers are subject to this tax, shall be responsible for collecting the excise tax imposed by this section and shall transmit all of the tax collected pursuant to this section to the Director on or before the fifteenth day of each month. The Director of the Bureau of Revenue and Taxation shall be responsible for the collection of the taxes imposed by this section.

(d) This tax shall apply and be collected by the hotelkeeper when the sale for occupancy is made, regardless of the time when the price is paid or delivered by the transient occupant.

(e) As used in this section “transient occupant” means those persons who occupy a room or cabin in a specific location in the Republic for less than thirty (30) days.

(f) The tax levied under this section shall not be levied against any transient occupant who pays no room charge in connection with an authorized promotional activity on behalf of Palau’s tourism industry, nor shall any hotelkeeper have a legal obligation under this section to collect or pay any excise tax for any room by a transient occupant who pays no room charge in connection with an authorized promotional activity on behalf of Palau’s tourism industry. Palau Visitors Authority shall be responsible for keeping a record of all guests who are authorized under the exception in this subsection and for reporting to the Ministry of Finance, on an annual basis, how many guests stayed in a room or cabin without charge under the exemption contained in this subsection, for how many nights, and in which hotels.

(g) Subject to annual authorization and appropriation, one percent (1%) of the [excise] taxes collected pursuant to this section or one hundred thousand dollars (\$100,000), whichever amount is less, shall be accounted for separately within the National Treasury and earmarked for appropriation to defray the costs associated with the procurement and maintenance of a decompression hyperbaric chamber at the Palau National Hospital.

#### **Source**

RPPL 1-63 § 501. Subsection (a) amended by RPPL 7-37 § 20. RPPL 8-33 § 1 amended subsections (a) and (b) in their entirety and adds subsection (c). RPPL 8-40 § 23 repeals section 1401 in its entirety and a new section 1401 is replaced by RPPL 8-40 § 24. Subsection (a) amended by RPPL 11-11 § 14.

#### **Notes**

RPPL 8-40 § 24 added two subsections (e) under section 1401 which have been re-lettered alphabetically by the editor.

In subsection (f), the bracketed “[excise]” replaced the wording “excises” in the original legislation per Code Commission.

### **§ 1402. Amusement device tax.**

Every person who, at any time during the tax year, owns a coin-activated amusement device shall, within thirty (30) days from the effective date of this division or within thirty (30) days of

## OTHER TAXES

## 40 PNCA § 1403

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 five hundred dollars (\$500) 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 two hundred dollars (\$200) shall be payable on the same basis. All such devices shall have affixed thereto stamps issued by chapter 16 and subject to the penalties and interest which may be levied under chapter 16 of this division.

### Source

RPPL 1-63 § 502, modified.

### Notes

Basilus v. ROP, 1 ROP Intrm. 417, 418-19, 422 (1987).

### § 1403. Departure tax.

(a) Every person departing from the Republic shall be levied and assessed and shall pay a tax of twenty dollars (\$20) upon each departure to the Director; provided that children under the age of three, Palauan students traveling to school, medical referral patients and persons accompanying them, and masters, pilots, and other crew members of any vessel or aircraft lawfully operating as a common carrier are exempt from any levy, assessment, and payment under this section; and further provided that Palauan citizens and their spouses shall be levied, assessed, and shall pay fifty percent (50%) of the tax provided in this section.

(b) Effective March 1, 2000, the Division of Customs shall be responsible for collecting the departure tax from persons departing the Republic of Palau. Within sixty (60) days after the effective date of this subsection, the Director of the Bureau of Revenue, Customs and Taxation shall promulgate regulations as may be necessary to implement this subsection, which shall be exempt from the Administrative Procedure Act, 6 PNC Chapter 1.

### Source

RPPL 1-63 § 503, as amended by RPPL 3-3 § 4, modified. Subsection (a) amended by RPPL 4-39 § 2. Subsection (c) added by RPPL 4-39 § 2. Section name and subsections (a) and (b) amended by RPPL 5-7 § 28(a). Subsection (c) repealed by RPPL 5-7 § 28(a). Subsection (a) amended by RPPL 5-8 § 5 to exempt Palauan students. The 5-7 amendment was effective 11/1/97, and 5-8 became law on 11/5/97. Subsection (b) is amended by RPPL 5-34 § 28, modified. Subsection (a) amended by RPPL 5-41 § 14. Subsection (b) is amended by RPPL 8-9 § 6.

### Commission Comment

Section 5 of RPPL 3-3 states: "Section 5. Conflict; act to govern. The provisions of this Act shall govern where a conflict exists between this Act and any law or regulation in force and effect."

**Notes**

See 28 PNCA § 551 concerning appropriation of 70% of traveler's head tax. RPPL 5-7 § 28(b) reverts all monies in Airport Improvement Fund to the general fund of the National Treasury.

**§ 1404. Road use tax.**

(a) There is hereby assessed and levied an annual road use tax on all motor vehicles, including vehicles owned by all agencies of the National Government, state governments and state agencies, and public corporations. All agencies and public corporations that may be exempt from taxes under other laws of the Republic shall pay the road use tax. The road use tax shall be payable at the time required for registration of each vehicle to be assessed the road use tax as follows:

- (1) All motor vehicles weighing two thousand (2,000) pounds or less -- fifty dollars (\$50).
- (2) All motor vehicles weighing between two thousand (2,000) and four thousand (4,000) pounds -- seventy five dollars (\$75).
- (3) All motor vehicles weighing between four thousand (4,000) pounds and six thousand (6,000) pounds-- one hundred fifty dollars (\$150). Any person who paid a two hundred dollar (\$200) road use tax in accordance with RPPL No. 9-10 shall receive a credit of fifty dollars (\$50) towards their future road use tax liability.
- (4) All motor vehicles weighing between six thousand (6,000) pounds and eight thousand (8,000) pounds -- three hundred dollars (\$300).
- (5) All motor vehicles weighing between eight thousand (8,000) and ten thousand (10,000) pounds -- five hundred dollars (\$500).
- (6) All motor vehicles weighing over ten thousand (10,000) pounds -- seven hundred fifty dollars (\$750).

(b) Road Maintenance Fund. There shall be established within the National Treasury a separate and distinct account for Road Maintenance. The total amount assessed and levied as an annual road use tax on all motor vehicles shall be deposited into the Road Maintenance Fund as collected to be used solely for the upkeep, maintenance, and repair of the Republic of Palau's national and state government roads and roadway traffic control devices. Subject to appropriation by the Olbiil Era Kelulau, the Road



Maintenance Fund shall also be available to fund the Palau Automated Land and Resources Information System's work to implement a uniform national street address system and to fund state implementation of the national street address system.

**Source**

RPPL 1-63 § 504. Amended by RPPL 5-7 § 29, effective 1/1/98. Amended by RPPL 5-34 § 38(a), modified. Amended by RPPL 9-10 § 2, modified. Subsection (a) amended by RPPL 9-18 § 2. Subsection (b) amended by RPPL 10-46 § 4. Subsection (b) amended by RPPL 10-50 § 3.

**§ 1405. Foreign water vessel tax.**

(a) Definitions. In this section:

(1) "Cruise ship" means a passenger ship used for pleasure voyages, where the voyage itself and the ship's amenities are a part of the experience, as well as the different destinations, or ports of call, along the way.

(2) "Liveaboard" means a commercially operated boat that provides an inclusive dive program for paying customers with lodging and meal services aboard the boat.

(3) "Private yacht" means any yacht not for hire and not engaged in trade or commerce but which operates for private use, pleasure, or recreational purposes.

(4) "Water vessel" means every description of watercraft owned or operated by a nonresident and used or capable of being used as a means of transportation on water or to be leased or sold in the Republic.

(b) There is hereby assessed and levied a tax of one hundred dollars (\$100) to be paid for every water vessel, except private yachts and cruise ships, entering the territorial waters of the Republic. A water vessel present in the Republic for more than one (1) year is assessed and levied an annual tax of two hundred fifty dollars (\$250) to be paid on or before the thirty-first day of January each year.

(c) There is hereby assessed and levied a tax to be paid for every water vessel that qualifies as a private yacht or cruise ship entering the territorial waters of the Republic and not expressly excluded by this section. Water vessels lawfully operating as common carriers are exempted from levy, assessment and payment of the tax imposed under this section. Liveaboards and traditionally built private yachts, as defined in regulations promulgated by the Ministry of Public Infrastructure and Industries, are exempted from

levy, assessment and payment of the tax imposed under this section.

(d) All water vessels that are classified as private yachts or cruise ships and not expressly exempt by this section shall pay an initial entry tax to remain in the Republic for up to thirty days, and must pay a renewal sum to remain in the Republic for each additional thirty day period. Subject to relevant exceptions under law or regulation, unless the owner of a private yacht or cruise ship is a business owner in the Republic of Palau, or has otherwise paid a fee to the Bureau of Customs and Border Protection as set forth in regulations promulgated by the Ministry of Public Infrastructure and Industries, no private yacht or cruise ship shall remain in the Republic longer than ninety (90) days. The following tiered tax system is based on the length of the water vessel and applicable to all private yachts and cruise ships not expressly excluded by this section:

(1) vessels below forty (40) feet in length shall pay an initial tax of two hundred fifty dollars (\$250) for a visit lasting thirty days or less, the cost of first renewal shall be one thousand dollars (\$1,000) and a second renewal shall be two thousand dollars (\$2,000).

(2) private yachts forty (40) feet or more, but less than ninety (90) feet in length shall pay an initial tax of five hundred dollars (\$500) for a visit lasting thirty days or less, the cost of first renewal shall be one thousand dollars (\$1,000) and a second renewal shall be two thousand dollars (\$2,000).

(3) private yachts ninety (90) feet or more, but less than one hundred fifty (150) feet in length shall pay an initial tax of seven hundred fifty dollars (\$750) for a visit lasting thirty days or less, the cost of first renewal shall be five hundred dollars (\$500) and a second renewal shall be two hundred fifty dollars (\$250).

(4) private yachts one hundred fifty (150) feet or more in length shall pay an initial tax of one thousand dollars (\$1000) for a visit lasting thirty days or less, the cost of first renewal shall be five hundred dollars (\$500) and a second renewal shall be two hundred fifty dollars (\$250).

(e) The tax structure of subsection [(d)] shall be incrementally implemented as follows: for the first year following the effective date of this Act, the Republic shall assess fifty percent (50%) of the tax amounts; for the second year following the effective date of this Act, the Republic shall assess seventy five percent (75%) of the tax amounts; for the third year following the effective date of this Act and every year thereafter, the Republic shall assess the full tax amount.

(f) The Ministry of Public Infrastructure and Industries shall promulgate regulations necessary to enforce the provisions of this section, and shall also be responsible for enforcing the provisions of this section.

**Source**

RPPL 1-63 § 505, modified. Amended in its entirety by RPPL 10-38 § 2, modified. A new subsection (b) is added by RPPL 10-45 § 14 and the rest of subsections renumbered accordingly.

**Notes**

The bracketed [(d)] in subsection (e) read (c) in the original legislation but was changed to (d) as per amendments made by RPPL 10-45 § 14.

**§ 1406. Fish export tax.**

There is hereby imposed a tax of fifty cents (\$0.50) per kilogram on any species of tuna, in any form, and any species of billfish, in any form, exported for commercial purposes; provided, however, that such tax shall not be imposed or collected on tuna or billfish, that is fished, as defined in 27 PNC Chapter 1, outside of Palau's waters, as defined in 27 PNC Chapter 1, and off-loaded in Palau pursuant to an agreement for transshipment at port negotiated pursuant to section 1407. There is hereby imposed a tax of thirty-five cents (\$0.35) per kilogram on all fish, in any form, excluding any species of tuna and any species of billfish, exported for commercial purposes. The Minister of Finance and Ministry of Agriculture, Fisheries and the Environment shall jointly promulgate such regulations and inspection procedures as are necessary to ensure the proper collection of this tax.

**Source**

RPPL 4-10 § 27. Amended by RPPL 5-8 § 13. Amended by RPPL 7-37 § 21, modified. Amended by RPPL 10-35 § 8. Amended by RPPL 10-57 § 2, modified.

**§ 1407. Landing fee for transshipment at port of tuna or billfish.**

(a) The Minister of Finance and Ministry of Agriculture, Fisheries and the Environment shall jointly promulgate regulations defining the scope of transshipment at port, and establishing mandatory terms for agreements for transshipment at port, which shall include terms requiring the use of automatic location communicators as set forth in chapter 2 of Title 27 of the Palau National Code and terms governing the domestic sale of fish. These regulations shall establish a reasonable landing fee for vessels engaging in the transshipment at port of tuna or billfish fished outside of Palau's waters; provided, however, that the landing fee imposed on any particular fishing vessel shall be no less than ten cents (\$0.10) per kilogram of tuna or billfish off-loaded by the vessel.

(b) Agreements for transshipment at port shall be negotiated between vessel owners and the Republic. No vessel may be simultaneously authorized to engage in transshipment at port and to fish in the waters of the Republic.

**Source**

RPPL 4-11 § 17, modified, modified. Repealed by RPPL 8-40 § 23. A new § 1407 reinstated by RPPL 10-57 § 3, modified.

**§ 1408. Remittance tax.**

(a) Definitions. As used in this section, the terms:

(1) “Remittance” means to give money or monetary value to a remittance company or bank for transmission to a location outside of the Republic of Palau by any and all means, including wire, facsimile, or electronic transfer.

(2) “Remittance company” means a person engaging in remittance as a service or for profit.

(b) An excise tax of four percent (4%) is hereby levied which shall be assessed and collected monthly against each noncitizen person remitting money out of the Republic of Palau. Such tax shall be collected by remittance companies and banks and transmitted to the Ministry of Finance on or before the fifteenth (15<sup>th</sup>) day of each month. The Ministry of Finance shall have ten (10) days to remit the remittance and money transfer tax to the Civil Service Pension Plan.

(c) The remittance companies and banks doing business located in the Republic of Palau shall indicate the amount of the remittance and money transfer tax as a separate item on the statement of charges to each customer and shall pay over the tax collected to the Ministry of Finance with the business’ revenue tax payment.

(d) Penalties. It is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500) for any person to remit money out of the Republic of Palau on behalf of another noncitizen in order to avoid the tax levied under this section.

(e) Exclusions. This section shall not apply to:

(1) The Government of the Republic of Palau or any department, agency, state government body, or instrumentality thereof;

## OTHER TAXES

## 40 PNCA § 1409

- (2) Remittance made for the purpose of compliance with the rules and regulations of the Federal Deposit Insurance Corporation;
- (3) The United States Postal Service;
- (4) Remittance made for the purpose of obtaining goods or services for use or sale in the Republic of Palau.

(f) The Ministry of Finance shall promulgate rules and regulations for the collection and enforcement of the remittance tax within ninety (90) days of the effective date of this Act.

### Source

RPPL 9-2 § 7, modified. Amended by RPPL 9-5 § 23.

### Notes

RPPL 9-2 § 8(b) reads: (b) This remittance and money transfer tax will be effective six (6) months after the effective date of this Act. (Effective date: April 30, 2013)

### § 1409. Land transaction proceeds fee.

There is hereby imposed a land transaction proceeds fee at the rate of four percent (4%) of the proceeds of any lease or transfer of land for any purpose. This land transaction proceeds fee shall not apply to a lease made by the Palau Public Lands Authority or a state public lands authority to a Palauan citizen or wholly Palauan-owned business entity, but shall apply to any subsequent sublease made by the Palauan citizen or wholly Palauan-owned business entity. This land transfer tax shall be imposed in addition to PGST for those transactions to which PGST applies.

### Source

RPPL 11-11 § 14.

**Subchapter II  
Business Profits Tax**

**Part A  
General Provisions**

- § 1411. Short title.
- § 1412. Definitions.
- § 1413. Permanent establishment.
- § 1414. Sources in the Republic.

**§ 1411. Short title.**

This subchapter shall be known and may be cited as the “Business Profits Tax Act.”

**Source**  
RPPL 11-11 § 14.

**Notes**  
Part A thru Part G of subchapter II replaced Part I thru VII to conform with the standard code format.

**§ 1412. Definitions.**

Unless the context requires otherwise, for the purposes of this subchapter:

- (a) “Amount” includes an amount-in-kind.
- (b) “Business profits tax” means business profits tax imposed under section 1421.
- (c) “Derived” means:
  - (1) for a taxpayer accounting for business profits tax on a cash basis, received;
  - (2) for a taxpayer accounting for business profits tax on an accrual basis, receivable;
  - (3) for international transportation tax, receivable;
  - (4) for non-resident tax, received.

(d) “Distribution” means a dividend paid by a company to a shareholder, an allocation of profits by a partnership to a partner (including the drawings of a partner), or an entitlement to income of a beneficiary of a trust.

(e) “Entity” means a partnership, trust, estate, company, or other association of persons.

(f) “Foreign asset”, in relation to a resident, means:

(1) a capital asset of a business carried on by the resident through a permanent establishment located outside the Republic;

(2) real property located outside the Republic;

(3) a share or other interest in an entity that is a non-resident; or

(4) an option or right to acquire an asset referred to in [paragraphs] (1), (2), or (3).

(g) “GAAP” or “US GAAP” means the generally accepted accounting principles published by the Financial Accounting Standards Board and all subsequent amendments thereto.

(h) “GAGAS” means the generally accepted government auditing standards produced by the U.S. Government Accountability Office and commonly referred to as the “Yellow Book,” and all subsequent amendments thereto.

(i) “GAAS” means the generally accepted auditing standards promulgated in the United States by the Auditing Standards Board (a division of the American Institute of Certified Public Accountants), and all subsequent amendments thereto.

(j) “Insurance premium” includes a premium relating to reinsurance and any other amount payable in respect of the placement of insurance.

(k) “Interest” includes:

(1) an amount, however described, whether paid periodically or as a lump sum, as consideration for the use of money or being given time to pay, including a discount or premium; or

(2) an amount, however described, that is functionally equivalent to an amount referred to in paragraph (1).

(l) “International organization” means:

(1) an Institution as defined in section 901 of Title 28; or

(2) an organization whose members are sovereign powers or governments of sovereign powers.

(m) “International transportation tax” means international transportation tax imposed under section 1423.

(n) “Non-resident” means a person who is not a resident and includes:

(1) a foreign government or political subdivision of a foreign government; or

(2) an international organization.

(o) “Non-resident tax” means non-resident tax imposed under section 1422.

(p) “PGST-registered person” means a person who is a registered person under section 1202(ii).

(q) “Received”, in relation to a person, includes:

(1) applied on behalf of the person either at the instruction of the person or under any law;

(2) reinvested, accumulated, or capitalized for the benefit of the person;

(3) credited to an account or carried to a reserve or a fund for the benefit of the person; or

(4) otherwise made available to the person.

(r) “Republic asset”, in relation to a non-resident, means:

(1) a capital asset of a business carried on by the non-resident through a



permanent establishment located in the Republic;

(2) real property located in the Republic;

(3) a share or other interest in an entity, if, at any time during the three hundred sixty-five (365) days preceding the disposal of the share or interest, more than fifty percent (50%) of the value of the share or interest is derived, directly or indirectly, from real property referred to [paragraph] (1) held by the entity;

(4) a share or other interest in a resident entity; or

(5) an option over, or right to acquire, an asset referred to in [paragraphs] (1) through (4).

(s) “Resident” means:

(1) an individual who is a resident under section 1002(cc);

(2) a company that is incorporated or formed in the Republic;

(3) a partnership, firm, joint venture, trust, estate, or other association, formed, settled, or otherwise established in the Republic; or

(4) the National Government of Palau and a State Government in Palau.

(t) “Resident entity” means an entity that is a resident.

(u) “Royalty” means an amount, however described, whether paid periodically or as a lump sum, as consideration for:

(1) the use of, or a right to use, any copyright, patent, trademark, design or model, plan, secret formula or process, or other similar property or right;

(2) the supply of any scientific, technical, industrial, or commercial knowledge, information, experience, or skill;

(3) the use of, or right to use, any industrial, commercial, or scientific equipment.

(v) “Tax” means tax imposed under this subchapter and includes withholding tax and installments of tax under section 1464.

- (w) “Taxpayer” means a person liable for tax under this subchapter and includes a person who has a net loss for a tax year.
- (x) “Tax year” means:
- (1) for a company, the period of twelve (12) months ending on the date of the annual balance of the company’s financial accounts; or
  - (2) for any other taxpayer, the calendar year.
- (y) “Technical fee” means a fee for managerial, administrative, technical, professional, or consultancy services, including a fee for the supply of administrative, technical, managerial, or other personnel, but does not include an amount paid as remuneration to an employee.
- (z) “Withholding agent” means a resident or a permanent establishment in the Republic of a non-resident making a payment of withholding income to a non-resident.
- (aa) “Withholding income” means an amount subject to non-resident tax.
- (bb) “Withholding tax” means tax required to be withheld from a payment of withholding income.

**Source**

RPPL 11-11 § 14, modified.

**Notes**

Numbering subsections are re-lettered and paragraphs are renumbered to comply with the standard code format. Bracketed [paragraph(s)] in subsections (f)(4) and (r)(3)(5) replaced “subparagraph(s)” accordingly.

**§ 1413. Permanent establishment.**

- (a) Subject to this section, a “permanent establishment” is a fixed place of business through which the business of a person is wholly or partly carried on.
- (b) The following are treated as a permanent establishment:
- (1) a place of management, branch, office, factory, warehouse, or workshop, but not including an office that has representation of a person’s business as its sole activity;

(2) a mine site, oil or gas well, quarry, or other place of exploration for, or exploitation of, natural resources, including an installation, boat, or ship used for the exploration for, or exploitation of, natural resources; or

(3) the furnishing of services, including consultancy services, by a person, including through employees or other personnel engaged by the person for such purpose, but only where activities of that nature continue for the same or a connected project of the person, or an associate of the person, for a period or periods aggregating more than one hundred eighty three (183) days in any twelve (12) month period.

(c) Subject to subsection (d), a building site, or a construction, assembly, or installation project, or a supervisory activity connected with such site or project, is a permanent establishment where the site, project, or activity continues for more than six (6) months.

(d) Where a person operates a building site, or conducts a project or activity referred to in subsection (c), any connected activity carried on by an associate of the person is added to the period of time during which the first-mentioned person has operated the building site or construction activities for the purpose of determining whether the six (6)-month period is exceeded.

(e) Notwithstanding subsections (a) and (b), where a person (referred to as the “agent”) acts on behalf of another person (referred to as the “principal”), the agent is a permanent establishment of the principal where the agent:

(1) regularly negotiates or signs contracts on behalf of the principal, whether the contracts are concluded in the name of the principal or the agent; or

(2) maintains a stock of goods from which the agent regularly delivers goods on behalf of the principal.

**Source**

RPPL 11-11 § 14, modified.

**§ 1414. Sources in the Republic.**

(a) Gross revenue derived by a resident is derived from sources in the Republic except to the extent that it is attributable to a business carried on by the resident through a permanent establishment located outside the Republic.

(b) Gross revenue derived by a non-resident is derived from sources in the Republic to the extent that it is attributable to:

- (1) a business carried on by the non-resident through a permanent establishment located in the Republic;
- (2) sales made by the non-resident in the Republic of goods or merchandise of the same or similar kind as those sold by the non-resident through a permanent establishment located in the Republic; or
- (3) any other business activity carried on by the non-resident in the Republic of the same or similar kind as that carried on by the non-resident through a permanent establishment located in the Republic.

(c) Notwithstanding subsections (a) and (b), the following are derived from sources in the Republic:

- (1) rent derived from the lease of real property located in the Republic;
- (2) a gain derived by a resident from the disposal of a capital asset of a business of the resident except where the asset is a foreign asset;
- (3) a gain derived by a non-resident from the disposal of a Republic asset of a business by the non-resident;
- (4) an insurance premium for the insurance or reinsurance of a risk in the Republic;
- (5) interest, a royalty, or technical fee:
  - (A) paid by a resident, other than as an expenditure of a business carried on by the resident through a permanent establishment located outside the Republic; or
  - (B) paid by a non-resident as an expenditure of a business carried on by the non-resident through a permanent establishment located in the Republic.

**Source**

RPPL 11-11 § 14, modified.

**Part B  
Imposition of Tax**

- § 1421. Imposition of business profits tax on PGST-registered persons.
- § 1422. Imposition of non-resident tax.
- § 1423. Imposition of international transportation tax.

**§ 1421. Imposition of business profits tax on PGST-registered persons.**

Every PGST-registered person, including a commercial bank within the meaning of chapter 10 of Title 26 of the Palau National Code, will be assessed and levied, and must pay, business profits tax on the net income of the person for each tax year at the same rate as the highest rate of tax on wages and salary established in section 1101.

**Source**  
RPPL 11-11 § 14, modified.

**§ 1422. Imposition of non-resident tax.**

- (a) Every non-resident will be assessed and levied, and must pay, non-resident tax at the rate specified in subsection (b) on the gross amount of interest, a royalty, technical fee, or insurance premium derived from sources in the Republic.
- (b) The rate of non-resident tax is:
  - (1) for an insurance premium, five percent (5%); or
  - (2) for any other amount, ten percent (10%).
- (c) Subsection (a) does not apply to the following:
  - (1) an amount that is exempt income; or
  - (2) an amount derived by a non-resident that is attributable to a business carried on by a non-resident through a permanent establishment in the Republic and, in that case, the amount is subject to net income tax under section 1421.
- (d) The tax payable under subsection (a) is discharged if the tax has been paid to the

Director in accordance with section 1465.

**Source**

RPPL 11-11 § 14, modified.

**§ 1423. Imposition of international transportation tax.**

(a) Every non-resident will be assessed and levied, and must pay, international transportation tax at the rate of four percent (4%) of the gross revenue derived by the non-resident for the carriage of passengers, livestock, mail, merchandise, or goods embarked or loaded in the Republic and destined for a place outside the Republic.

(b) Subsection (a) does not apply to the following:

(1) an amount that is exempt income;

(2) an amount derived in respect of the following:

(A) a passenger who is in the Republic solely as a result of being in transit between two places outside the Republic;

(B) the transshipment of livestock, mail, merchandise, or goods.

(c) The Minister of Finance shall promulgate regulations for the reporting and payment of international transportation tax.

**Source**

RPPL 11-11 § 14.

**Part C  
Calculation of Net Income**

- § 1431. Gross revenue and net income.
- § 1432. Gross revenue.
- § 1433. Exempt income.
- § 1434. Deductions.
- § 1435. Non-deductible expenditure.
- § 1436. Bad debts.
- § 1437. Net loss carry forward.
- § 1438. Method of tax accounting.
- § 1439. Skilled labor business profits tax relief.

**§ 1431. Gross revenue and net income.**

The terms “gross revenue” and “net income” have their meanings in section 1002(o) and section 1002(y), respectively, and in accordance with GAAP, GAAS, and GAGAS, but subject to the modifications in this Part.

**Source**  
RPPL 11-11 § 14, modified.

**§ 1432. Gross revenue.**

- (a) For the purposes of the section 1002(o) definition of “gross revenue”, the gain on the disposal of a capital asset of a business by a taxpayer is the amount by which the consideration for the disposal of the asset exceeds the net book value of the asset at the time of disposal.
- (b) The amount of an expenditure, loss, or bad debt previously allowed as a deduction to a taxpayer that has been reimbursed or recovered by the taxpayer is included in gross revenue.
- (c) For the purposes of the business profits tax, the gross revenue of a taxpayer does not include:

- (1) exempt income;

(2) an amount subject to non-resident tax or international transportation tax.

**Source**

RPPL 11-11 § 14, modified.

**§ 1433. Exempt income.**

(a) The following amounts are exempt income for the purposes of this subchapter:

(1) a distribution by a resident entity;

(2) the income of a nonprofit corporation that is a resident;

(3) an amount to the extent exempt from tax under chapter 9 of Title 28 or an international agreement;

(4) an amount derived by a non-resident from the operation of a ship or aircraft if the Director is satisfied that an equivalent exemption is provided to a resident by the country in which the non-resident resides;

(5) an amount derived by the national government or a state government or a political subdivision of the national government or a state government.

(b) Subject to subsection (c), a provision in another law providing that an amount is exempt income or providing for any other concessional tax treatment has no legal effect unless also provided for in this subchapter.

(c) Subsection (b) does not apply to a provision in another law that is in force at the commencement date of this subchapter.

**Source**

RPPL 11-11 § 14, modified.

**§ 1434. Deductions.**

(a) For the purposes of the section 1002(y) definition of “net income”, the loss on the disposal of a capital asset of a business by a taxpayer is the amount by which the net book value of the asset at the time of disposal exceeds the consideration for the disposal of the asset.



(b) Subject to subsection (c), a taxpayer is allowed a deduction for a cash donation made during a tax year to:

(1) a non-profit corporation; or

(2) the Government in response to an emergency call issued by the Government to prevent or provide relief in relation to man-made or natural disasters, or an epidemic.

(c) The amount of the deduction allowed to a taxpayer under subsection (b)(1) for a tax year shall not exceed more than five percent (5%) of the gross revenue of the taxpayer for the tax year.

(d) An employer is allowed a deduction for one hundred twenty percent (120%) of the eligible training expenditure incurred by the employer during a tax year on the training of employees who are Palau citizens. Expenditures that qualify as eligible training expenditures will be specified in the regulations.

(e) Subject to subsection (f), a provision in another law providing for the concessional treatment of any expenditure for tax purposes has no legal effect unless also provided for in this subchapter.

(f) Subsection (e) does not apply to a provision in another law that is in force at the commencement date of this subchapter.

**Source**

RPPL 11-11 § 14, modified.

**§ 1435. Non-deductible expenditure.**

(a) Except as provided for in this subchapter or under the regulations, no deduction is allowed for:

(1) an expenditure to the extent to which it is of a domestic or private nature;

(2) a distribution, an amount of capital withdrawn, or a sum employed as capital;

(3) an expenditure taken into account in calculating a gain on the disposition of a capital asset of a business included in gross revenue under section 1002(o) or a

loss on the disposition of a capital asset of a business allowed as a deduction under section 1002(y)(9);

(4) an expenditure of a capital nature except as allowed under section 1002(y)(10);

(5) subject to section 1002(y)(5), an amount that a taxpayer has transferred in its financial accounts to a reserve or provision for expenditures or losses not yet incurred but expected to be incurred in a future tax year;

(6) an expenditure or loss to the extent recovered or recoverable under a policy of insurance or a contract of indemnity, guarantee, or surety;

(7) business profits tax or an equivalent tax payable in a foreign country, and any penalty or interest payable in respect of such a tax liability;

(8) a fine or penalty imposed for violation of any law or regulation;

(9) interest payable to an associate other than interest included in the gross revenue of the associate or subject to non-resident tax.

(b) If a taxpayer is allowed a deduction for payment from which the taxpayer is required to withhold tax under section 1465, the deduction is not allowed until the tax year in which the withholding tax has been paid to the Director.

**Source**

RPPL 11-11 § 14, modified.

**§ 1436. Bad debts.**

(a) A taxpayer is allowed a deduction for a tax year for a bad debt if the following conditions are satisfied:

(1) the amount of the debt:

(A) has been included in the gross revenue of the taxpayer; or

(B) subject to subsection (c), is money lent by the taxpayer in the normal course of carrying on a business of money lending;

- (2) the debt or a part of the debt is written off in the taxpayer's financial accounts for the tax year; and
  - (3) there are reasonable grounds for believing that the debt is irrecoverable.
- (b) The amount of the deduction allowed to a taxpayer for a bad debt must not exceed the amount of the debt written off in the taxpayer's financial accounts.
- (c) This section does not apply to a bank.

**Source**  
RPPL 11-11 § 14, modified.

**§ 1437. Net loss carry forward.**

- (a) If the total amount of deductions allowed to a taxpayer for a tax year (other than a deduction allowed under this section) exceeds the gross revenue of the taxpayer for the year, the amount of the excess is a net loss of the taxpayer for the year.
- (b) If a taxpayer has a net loss for a tax year, the amount of the net loss is carried forward to the next following tax year and allowed as a deduction in calculating the taxpayer's net income for that following year.
- (c) If a net loss is not wholly deducted under subsection (b), the amount not deducted is carried forward to the next following tax year and applied as specified in subsection (b) in that year, and so on until the net loss for a tax year is fully deducted, but a net loss cannot be carried forward for more than four (4) tax years after the end of the year in which the net loss was incurred.
- (d) If a taxpayer has a net loss carried forward under this section for more than one tax year, the net loss of the earliest year is deducted first.

**Source**  
RPPL 11-11 § 14, modified.

**§ 1438. Method of tax accounting.**

- (a) Subject to this chapter and the regulations, the net income of a taxpayer for a tax year shall be calculated in accordance with the GAAP, GAAS, and, where applicable, the

GAGAS.

(b) With the approval of the Director, a taxpayer may account for business profits tax on a cash basis under which:

- (1) an amount is included in gross revenue when received; and
- (2) an expenditure is allowed as a deduction when paid.

(c) If there is a change in a taxpayer's method of accounting for tax, the taxpayer must make adjustments in the tax year of the change to amounts of gross revenue, deductions, and tax credits so that no amount is omitted and no amount is taken into account more than once.

**Source**

RPPL 11-11 § 14, modified.

**§ 1439. Skilled labor business profits tax relief.**

In order to encourage Palau's skilled labor industries to employ more Palauan citizens, a PGST-registered person subject to the tax imposed under section 1421 shall be entitled to a temporary business profits tax benefit as follows:

(a) Amount of Tax Relief:

- (1) From January 1, 2023 to December 31, 2024, an employer may subtract an amount that is double the salary of citizen employees of the employer who possess vocational certificates from Palau Community College before assessing the tax levied under section 1421 of this Title.
- (2) From January 1, 2025 to December 31, 2025, an employer may subtract an amount that is one hundred seventy-five percent (175%) the salary of citizen employees of the employer who possess vocational certificates from Palau Community College before assessing the tax levied under section 1421 of this Title.
- (3) From January 1, 2026 to December 31, 2026, an employer may subtract an amount that is one hundred fifty percent (150%) the salary of citizen employees of the employer who possess vocational certificates from Palau Community College

## OTHER TAXES

## 40 PNCA § 1441

before assessing the tax levied under section 1421 of this Title.

(4) From January 1, 2027 to December 31, 2029, an employer may subtract an amount that is one hundred twenty-five percent (125%) the salary of citizen employees of the employer who possess vocational certificates from Palau Community College before assessing the tax levied under section 1421 of this Title.

(b) If an employer chooses to claim the Skilled Labor Business Profits Tax Relief under this section, then, notwithstanding section 1002(y)(1) of this Title, the employer shall not be allowed to deduct the salaries, bonuses, or other compensation for personal services provided by citizen employees before taking advantage of the tax relief provided under this section.

### Source

RPPL 11-11 § 14, modified.

### Part D Assets

§ 1441. Cost.

§ 1442. Net book value.

§ 1443. Consideration.

§ 1444. Disposal of an asset.

§ 1445. Additional rules relating to assets.

### § 1441. Cost.

(a) The cost of an asset of a taxpayer is the total of the following amounts:

(1) the total consideration given by the taxpayer for the acquisition of the asset, including the fair market value of any consideration in kind determined at the time the asset is acquired and, where the asset is constructed, produced, created, or developed, the cost of construction, production, creation, or development;

(2) any incidental expenditure incurred by the taxpayer in acquiring and disposing of the asset;

- (3) any expenditure incurred by the taxpayer in installing the asset; and
- (4) any expenditure incurred by the taxpayer to reconstruct or improve the asset with the purpose or effect of increasing the value of the asset.

(b) The cost of an asset of a taxpayer does not include:

- (1) any expenditure incurred by the taxpayer in relation to the asset that is allowed as a deduction to the taxpayer in calculating net income; or
- (2) the amount of any grant, subsidy, rebate, or other financial assistance given to the taxpayer in respect of the acquisition of the asset, except to the extent to which the amount is included in the gross revenue of the taxpayer.

**Source**  
RPPL 11-11 § 14.

**§ 1442. Net book value.**

The net book value of an asset is:

- (a) for a depreciable asset, the cost of the asset reduced by depreciation deductions (if any) allowed in respect of the asset; or
- (b) for any other asset, the cost of the asset.

**Source**  
RPPL 11-11 § 14, modified.

**Notes**  
Numbering subsections are re-lettered to conform with the code format.

**§ 1443. Consideration.**

- (a) The consideration for the disposal of an asset by a taxpayer is the total amount received or receivable by the taxpayer for the asset, including the fair market value of any consideration in kind determined at the time of disposal.
- (b) Where an asset has been destroyed, the consideration for the disposal of the asset includes any compensation, indemnity, or damages received or receivable by the taxpayer

as a result of the destruction of the asset, including amounts received or receivable under:

- (1) an insurance policy, indemnity, or other agreement;
- (2) a settlement; or
- (3) a judicial decision.

**Source**  
RPPL 11-11 § 14.

**§ 1444. Disposal of an asset.**

- (a) A person disposes of an asset:
  - (1) for an asset that is a right, at the time that the right is cancelled, redeemed, expired, or surrendered; or
  - (2) for any other asset, at the time the person has sold, exchanged, or otherwise transferred legal title to the asset, or the asset is destroyed.
- (b) Where a person creates an asset in another person being an asset that did not previously exist, the first-mentioned person is treated as having made a disposal of the asset to the other person at the time the asset is created.

**Source**  
RPPL 11-11 § 14.

**§ 1445. Additional rules relating to assets.**

The regulations may provide for additional rules relating to assets; provided, however, that the additional rules relating to assets must comply with the GAAP, GAAS, and, where applicable, the GAGAS.

**Source**  
RPPL 11-11 § 14.

**Part E**  
**Tax Avoidance**

§ 1451. Tax avoidance schemes.

§ 1452. International tax avoidance.

**§ 1451. Tax avoidance schemes.**

(a) Subsections (b) and (c) apply if the Director is satisfied that:

- (1) a scheme has been entered into or carried out;
- (2) a person has obtained a tax benefit in connection with the scheme; and
- (3) having regard to the substance of the scheme, it would be concluded that a person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person referred to in paragraph (2) to obtain the tax benefit.

(b) If the Director is satisfied of the matters specified in subsection (a), then the Director may determine the business profits tax liability of the person who obtained the tax benefit as if the scheme had not been entered into or carried out.

(c) If the Director makes a determination under subsection (b), the Director must serve a notice or notices of assessment to give effect to the determination on the person or persons whose business profits tax liability is affected by the determination.

(d) A determination under subsection (b) must be made within six years from the last day of the tax year to which the determination relates.

(e) The following constitute a “tax benefit” for the purposes of this section:

- (1) a reduction in the liability of a person to pay business profits tax;
- (2) an entitlement to a refund of business profit tax;
- (3) a postponement of a liability for the payment of business profits tax; or



(4) anything that causes:

(A) an amount of gross revenue to be exempt income or otherwise not subject to tax; or

(B) an amount that would otherwise be subject to tax not to be taxed.

**Source**

RPPL 11-11 § 14, modified.

**§ 1452. International tax avoidance.**

The regulations may provide rules to counter mis-pricing in cross-border transactions, excessive debt capitalization by non-residents of operations in the Republic, and other international tax avoidance arrangements.

**Source**

RPPL 11-11 § 14.

**Part F**

**Business Profits Tax Procedure**

§ 1461. Records.

§ 1462. Filing of tax returns.

§ 1463. Due date for payment of tax.

§ 1464. Installments of business profits tax.

§ 1465. Withholding tax.

**§ 1461. Records.**

(a) A taxpayer must keep such accounts, documents, and records as enable the calculation of the taxpayer's business profits in accordance with the GAAP and GAAS and the calculation of the business profits tax payable (including a nil amount) by the taxpayer, or the net loss of a taxpayer, for a tax year.

(b) If a taxpayer is unable to produce documentary evidence relating to the circumstances giving rise to the claim for a deduction or the inclusion of the amount in the cost of a capital asset, the Director may disallow a claim by the taxpayer for:

- (1) a deduction for an expenditure or loss; or
- (2) the inclusion of an amount of expenditure in the cost of a capital asset.

**Source**  
RPPL 11-11 § 14.

**§ 1462. Filing of tax returns.**

- (a) A person liable for business profits tax must file a business profits tax return for each tax year within three (3) months after the end of the year.
- (b) A business profits tax return must be in the approved form and filed in the prescribed manner.

**Source**  
RPPL 11-11 § 14.

**§ 1463. Due date for payment of tax.**

The business profits tax payable by a taxpayer for a tax year is due on the date that the business profits tax return for that year is due to be filed.

**Source**  
RPPL 11-11 § 14.

**§ 1464. Installments of business profits tax.**

A taxpayer liable for business profits tax must pay installments of tax for a tax year as determined under the regulations.

**Source**  
RPPL 11-11 § 14.

**§ 1465. Withholding tax.**

- (a) Subject to subsection (b), a withholding agent making a payment of withholding income must withhold non-resident tax at the non-resident tax rate applicable to the income from the gross amount of the withholding income paid.

## OTHER TAXES

## 40 PNCA § 1465

(b) A withholding agent must file a withholding tax return and pay withholding tax to the Director by the last day of the month following the end of the month in which the withholding income was paid to the non-resident. A withholding tax return must be in the approved form and filed in the prescribed manner.

(c) A withholding agent is personally liable to pay withholding tax to the Director if:

(1) the withholding agent fails to withhold tax as required under this section; or

(2) having withheld tax, fails the withholding agent to pay the tax to the Director as required under subsection (b).

(d) A withholding agent who is personally liable for withholding tax under subsection (c)(1) is entitled to recover the tax from the non-resident to whom the withholding income was paid.

(e) If a withholding agent fails to withhold tax as required under this section and the unpaid withholding tax is not able to be recovered from the withholding agent under subsection (d), the Director may recover the tax from the non-resident to whom the withholding income was paid.

(f) A withholding agent must keep records of the gross amount of withholding income paid to non-residents and the amount of tax withheld from each payment.

(g) In this section, “payment” includes the crediting of an account for the benefit of a non-resident.

### Source

RPPL 11-11 § 14, modified.

**Part G**  
**Miscellaneous Provisions**

§ 1471. Currency translation.

§ 1472. Regulations.

**§ 1471. Currency translation.**

- (a) An amount taken into account under this part is expressed in United States dollars.
- (b) If an amount is expressed in a currency other than United States dollars, the amount is converted to United States dollars at the United States Federal Reserve mid-exchange rate applicable between the foreign currency and United States dollars on the date that the amount is taken into account for the purposes of this part.
- (c) With the prior written permission of the Director, a taxpayer may convert amounts for a tax year that are expressed in a currency other than United States dollars at the United States Federal Reserve average mid-exchange rate for the year applicable between the foreign currency and United States dollars.

**Source**  
RPPL 11-11 § 14.

**§ 1472. Regulations.**

- (a) The Minister of Finance may promulgate any regulations that are necessary to give effect to this subchapter.
- (b) The regulations may provide for transitional rules consequent upon the imposition of the business profits tax.

**Source**  
RPPL 11-11 § 14.

**Chapter 15  
Business Licenses**

- § 1501. Licenses required; fees; Foreign Investment Act compliance.
- § 1502. Transfer; term.
- § 1503. Multiple locations; display.
- § 1504. Identification of business.
- § 1505. Revocation or suspension.
- § 1506. Imposition of additional business license fee on non-PGST-registered persons.

**§ 1501. Licenses required; fees; Foreign Investment Act compliance.**

Any person engaging in business in the Republic shall, as a condition precedent to engaging or continuing to engage in business, obtain from the Director a license to engage in business and pay an annual fee according to the following schedule:

(a) Wholesaler	-	three hundred dollars (\$300)
(b) Person engaging in a profession	-	three hundred dollars (\$300)
(c) Importer	-	two hundred dollars(\$200)
(d) Massage parlor operator	-	five hundred dollars (\$500)
(e) Other, General	-	fifty dollars (\$50)

(1) Food establishments, and all other licensed businesses may be open twenty-four (24) hours per day. While food establishments and all other licensed business may be open twenty-four (24) hours per day, the hours of sale for alcoholic beverages within such food establishments and other licensed businesses shall continue to be controlled by 11 PNC § 1015(e) as amended by Republic of Palau Public Laws 6-41 and 7-49.

(2) No business license shall be issued unless and until the person requesting the business license furnishes such information as reasonably necessary for the Director to determine that the business either does not require or has obtained a valid foreign investment approval certificate, in accordance with chapter 1 of Title 28 of the Palau National Code.

**Source**

RPPL 1-63 § 601, licenses alphabetized and section modified. Subsections (d), (e) and (f) amended by RPPL 5-7 § 44 effective 1/1/98. Former subsection (d) was deleted by RPPL 5-47 § 34 and the remaining subsections were re-lettered. Subsection (e)(1) added by RPPL 7-12 § 1, modified. Amended in its entirety by RPPL 9-64 § 3, modified.

**Notes**

Ellender Ngirameketii v. ROP, 2022 Palau 9 ¶¶ 7, 12.

Tulop v. ROP, 2021 Palau 9 ¶¶ 1, 7.

Kanai v. ROP, 2016 Palau 29 ¶ 8.

Isechal v. ROP, 15 ROP 78, 79, 81 (2008).

Becheserrak v. Uludong, (Civil Action No. 306-93).

**Cross-reference**

For additional statutory provisions on business regulations and licensing, see Title 11, Business and Business Regulation; for statutory provisions on licensing of duty-free concessions, see chapter 6 of Title 28; for statutory provisions on licensing the sale of compressed air or underwater breathing equipment, see subchapter III, chapter 52 of Title 34; for complete listing of licensing provisions in this Code, see index listing, LICENSING.

**§ 1502. Transfer; term.**

A license issued under this chapter shall not be transferable and shall expire on the thirty-first day of December, regardless of when issued.

**Source**

RPPL 1-63 § 602.

**§ 1503. Multiple locations; display.**

Any person who operates two or more businesses in the Republic shall obtain a separate license for each business. Each business shall display its license to operate in a conspicuous place so all who enter into commercial activity with the business will know it is licensed.

**Source**

RPPL 1-63 § 603, modified.

**§ 1504. Identification of business.**

Any person engaging in business in the Republic shall register his business with the Revenue and Tax Office and shall obtain an identification number. Every state government issuing retail or other state business licenses shall submit a list of the said businesses to the Director within 30 days of the issuance of its license.

**Source**

RPPL 1-63 § 604.

**§ 1505. Revocation or suspension.**

The Director may revoke or suspend any license issued under this chapter upon finding that a taxpayer:

- (a) has not paid taxes due;
- (b) has otherwise violated any provision of this division or regulations issued pursuant to this division;
- (c) has failed to make Social Security contributions as required by [41] PNC § 744; or
- (d) has failed to file a quarterly report to the Social Security Administration as required by [41] PNC § 745.

**Source**

RPPL 1-63 § 605. Amended by RPPL 9-57 § 6.

**Notes**

In the original legislation the bracketed [41] in subsections (c) and (d) read “40”, and the Code Commission has determined that it was a typographical error that was meant to be Title 41.

Isechal v. ROP, 15 ROP 78, 79, 80 (2008).

**§ 1506. Imposition of additional business license fee on non-PGST-registered persons.**

- (a) Every non-PGST-registered person with annual gross income of fifty thousand dollars (\$50,000) or less must pay an additional business license fee of one hundred dollars (\$100) for each calendar year. This fee is in addition to the standard business license fee payable under section 1501 by all persons conducting business. The additional business license fee shall be collected in quarterly installments as provided for in regulations.

**Source**

RPPL 11-11 § 15, modified.

**Chapter 16**  
**Collection and Appeals**

- § 1601. Records of transactions.
- § 1602. Assessments.
- § 1603. Informal hearing.
- § 1604. Adjustment.
- § 1605. Review.
- § 1606. Collection; suit; injunction.
- § 1607. Tax liens.
- § 1608. Suit for refund.
- § 1609. Liabilities and obligations of taxpayer's representative.
- § 1610. Seizure of goods.
- § 1611. Collection of unpaid tax from third party.
- § 1612. Duties of appointed persons.
- § 1613. Security.
- § 1614. Taxpayer unable to meet its tax liability.
- § 1615. Implementation of treaties providing for mutual administrative assistance.

**§ 1601. Records of transactions.**

Every person, firm, corporation or association engaging in any transaction subject to a tax, fee or charge levied or imposed under this division shall keep a full and accurate record of each such transaction engaged in by him and such record shall be available for examination by the Director or his authorized representative for at least three years after the date of such transaction. Every business shall keep the following:

- (a) a daily record of all cash receipts showing the date, total cash receipts, cash sales, payments on accounts receivable and miscellaneous receipts. Supporting documents comprised of cash register tapes, sales, slips, receipts, and other documents relating to cash received shall be retained in chronological sequence for examination.
- (b) a daily record of credit sales showing, date, name of purchaser, invoice/receipt number, amount, and discount (if applicable). Supporting documents consisting of sales invoices or receipts shall be retained in chronological sequence for examination.
- (c) a daily record of each disbursements showing date, payee, invoice number, amount discount (if applicable), and purpose of payment. Supporting documents consisting of



cancelled checks, receipts, invoices, or other evidence of cash disbursed shall be maintained in chronological sequence for examination.

(d) such other records as the Director may require.

**Source**

RPPL 1-63 § 701, modified.

**§ 1602. Assessments.**

(a) A taxpayer who has filed a return for a tax period is treated as having made a self-assessment of the tax payable, including an amount of zero (0), by the taxpayer for the period being the amount as set out in the return.

(b) If a taxpayer has failed to file a return as required under this division for a tax period, the Director may make an assessment, referred to as a “default assessment” in this section, of the tax payable, including an amount of zero (0), by the taxpayer for the period. A default assessment made by the Director does not relieve the taxpayer from the obligation to file the return for the tax period to which the default assessment relates.

(c) If, during a tax period, a taxpayer dies, has been declared bankrupt, gone into liquidation, or otherwise ceased to exist, or the Director has reason to believe that a taxpayer will leave the Republic permanently, then the Director may make an assessment, referred to as an “advance assessment” in this section, of the tax payable by the person for the period. An advance assessment:

(1) may be made before the date on which the taxpayer’s return for the period is due;

(2) must be made in accordance with the law in force at the date the assessment was made; and

(3) does not relieve the taxpayer or the taxpayer’s representative from the obligation to file the return for the tax period to which the advance assessment relates.

(d) A return filed by a taxpayer for a tax period after the taxpayer has been served with notice of a default or advance assessment for the period is not a self-assessment.

(e) The Director may make an additional assessment in relation to an assessment of a taxpayer for a tax period, referred to as the “original assessment” in this section, by making such alterations or additions to the original assessment as the Director considers necessary to ensure that the taxpayer is liable for the correct amount of tax payable for the tax period. The Director may make an additional assessment:

(1) in the case of fraud or willful neglect by or on behalf of a taxpayer, at any time;

(2) in any other case:

(A) for a self-assessment, within three (3) years after the taxpayer has filed the return to which the self-assessment relates; or

(B) for any other assessment, within three (3) years after the date the Director served notice of the assessment on the taxpayer.

(f) A taxpayer may apply to the Director within the time specified in subsection (e)(2)(A) for the Director to make an additional amendment in accordance with subsection (e) in relation to a self-assessment made by the taxpayer. Subsection (e) shall not be interpreted to prevent the Director from making an additional assessment to a self-assessment upon application by the taxpayer under this subsection provided the application was submitted within the time specified in subsection (e).

(g) Subject to subsection (h), if an additional assessment has been made to an original assessment, the Director may make a further additional assessment in respect of the original assessment within the later of:

(1) the time specified in subsection (e)(2); or

(2) one (1) year after the Director served notice of the additional assessment on the taxpayer.

(h) If subsection (g)(2) applies, the Director is limited to amending the alterations and additions made in the additional assessment to the original assessment.

(i) The reference in this section to an assessment, including a self-assessment, of the tax payable by a taxpayer for a tax period includes:

(1) for a PGST-registered person with an excess input tax credit for a PGST period under section 1261, an assessment of the amount of the excess input tax credit; or

(2) for a taxpayer with a net loss carried forward under section 1437, an assessment of the amount of the loss.

(j) As soon as practicable after making a default assessment, advance assessment, or additional assessment, the Director must serve the taxpayer with notice of the assessment containing the information specified in the regulations.

**Source**

RPPL 1-63 § 702. Repealed in its entirety and replaced by RPPL 11-11 § 7, modified.

**§ 1603. Informal hearing.**

The taxpayer shall have the right within fifteen (15) days of notice of the assessment required under section 1602 or of any other decision made by the Director to request from the Director an informal hearing on the assessment or decision and at that time the taxpayer may submit such data as may be relevant. After receiving a request for a hearing, the Director shall notify the taxpayer of the time and place of such hearing in writing. The decision of the Director after the informal hearing shall be given within fifteen (15) days from the date of the hearing to the taxpayer.

**Source**

RPPL 1-63 § 703.

**§ 1604. Adjustment.**

If the Director after informal hearing decides that the tax assessment or his decision was incorrect, he shall make such adjustments as are necessary to correct the assessment or decision, including the issuance of a refund.

**Source**

RPPL 1-63 § 704.

**§ 1605. Review.**

If the Director's decision is adverse to the taxpayer, in whole or in part, the taxpayer shall have

the right to institute an action for review, within one year from the date of the decision, in the Trial Division of the Supreme Court. In cases involving an assessment such action shall be commenced by first paying the tax as assessed and then by filing a petition setting forth assignments of errors alleged to have been committed by the Director in determining the assessment, facts relied upon to sustain such assignment of errors, and a prayer for appropriate relief. The Director shall be the respondent in such an action. The action shall be tried by the court without a jury and the petitioner shall have the burden of proof.

**Source**  
RPPL 1-63 § 705.

**§ 1606. Collection; suit; injunction.**

The Director shall have available for the enforcement of any delinquent tax assessment the following remedies:

(a) Suit--the Director may require the Ministry of Justice to take such legal action as he shall deem proper in the name of the Republic. In a suit for the collection of delinquent taxes, a statement by the Director as to the amount due and the fact it remains unpaid shall be sufficient evidence of these matters, unless the defendant taxpayer expressly shows the contrary. In any civil suit, a written statement of the Director as to the amount of tax due, the fact that it is unpaid, and the person who is authorized to collect it, shall be sufficient evidence of these matters unless the contrary is expressly shown by the taxpayer. The Director, before submitting a case to the Ministry of Justice, shall:

(1) deliver a written notice of the assessment to the taxpayer setting forth the date it was originally due, the amount of the tax due, and the amount of penalties and interest due. Such notice shall be delivered to the taxpayer at the address listed by him on his business license, or if he has none, to his last known address;

(2) certify that at least thirty (30) days have elapsed since the notice was delivered;

(3) certify that the taxpayer has not, within those thirty (30) days, paid the assessment, including penalties and interest, in full or made an agreement for the payment of the same.

(b) Injunction--the Director may request the Ministry of Justice to seek, in a court of competent jurisdiction, an injunction to restrain any person who is delinquent in the payment of any tax liability from continuing to carry on his business until such 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.

**Notes**

Isechal v. ROP, 15 ROP 78, 79, 81 (2008).

**§ 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.

**§ 1609. Liabilities and obligations of taxpayer's representative.**

(a) A representative of a taxpayer is responsible for performing any duty or obligation imposed under this division on the taxpayer, including the filing of returns and payment of tax. If there are two (2) or more representatives of a taxpayer, the representatives are jointly and severally liable for any duty or obligation of the taxpayer but the duty or obligation may be discharged by any of them.

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

(c) Except as provided otherwise under this division and subject to subsection (d), any tax that, by virtue of subsection (a), is payable by the representative of a taxpayer is recoverable from the representative only to the extent of the income or assets of the taxpayer that are in the possession or under the control of the representative.

(d) Subject to subsection (e), a representative is personally liable for the payment of a tax due by the representative in that capacity if, while the amount remains unpaid, the representative:

(1) alienates, charges, or disposes of any moneys received or accrued in respect of which the tax is payable; or

(2) disposes of or parts with any moneys, funds, or assets 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 could legally have been paid from or out of such moneys or funds, or proceeds of sale of the assets.

(e) A representative is not personally liable for tax under subsection (d) if:

(1) the monies were paid by the representative on behalf of a taxpayer and the amount paid has priority, in law or equity, over the tax payable by the taxpayer; or

(2) at the time the monies were paid, the representative had no knowledge, and could not reasonably be expected to know, of the taxpayer's tax liability.

(f) The Director may recover an amount that a representative is personally liable for under subsection (d) under this chapter as if the amount were unpaid tax.

(g) Nothing in this section relieves a taxpayer from performing any obligation imposed on the taxpayer under this division that the representative of the taxpayer has failed to perform.

**Source**

RPPL 11-11 § 8, modified.

**§ 1610. Seizure of goods.**

(a) The Director may seize any goods in respect of which the Director has reasonable grounds to believe that the PGST, carbon tax, or excise tax that is, or will become,

payable in respect of the supply, removal, or import of the goods has not been, or will not be, paid.

(b) If goods have been seized under subsection (a), the Director 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:

- (1) identifying the goods;
- (2) stating that the goods have been seized under this section and the reason for the seizure;
- (3) setting out the process for recovery of the seized goods; and
- (4) stating that the goods will be forfeited if not claimed within the detention period specified in the notice.

(c) A person who has been served with a notice under subsection (b) claims the seized goods by paying, or making a payment arrangement satisfactory to the Director, for the PGST, carbon tax, or excise tax that is, or will become, payable in respect of the supply or import of the goods. The Director must authorize the delivery of goods seized under subsection (a) to a person who has claimed the goods in accordance with this subsection.

(d) Seized goods that have not been claimed within the detention period specified in the notice served under subsection (b) are treated as forfeited to the government at the end of the detention period and the Director may sell the goods in the manner specified in the regulations.

(e) The regulations must provide for the storage, retention period, and disposal of seized goods.

**Source**

RPPL 11-11 § 8, modified.

**§ 1611. Collection of unpaid tax from third party.**

(a) If a taxpayer has unpaid tax or the Director has reason to believe that a taxpayer will not pay tax by the due date, the Director may, by notice in writing, require a person, referred to as “the payer” in this section, who owes or may subsequently owe money to

the taxpayer, or who holds or may subsequently hold money on behalf of the taxpayer, to pay the amount specified in the notice to the Director by the date specified in the notice.

(b) The amount specified in the notice must not exceed the unpaid tax or the amount of tax that the Director believes will not be paid by the taxpayer by the due date for payment. The date for payment under the notice must not be a date that is before the date that the amount owed by the payer to the taxpayer becomes due to the taxpayer or held on the taxpayer's behalf.

(c) If a notice served under subsection (a) requires a payer to deduct amounts from a pension, salary, wages, or other similar remuneration payable at fixed intervals to the taxpayer, the amount required to be deducted by the payer from each payment must not exceed twenty percent (20%) of the amount of each payment of a pension, salary, wages, or other remuneration.

(d) This section applies to a joint account with a financial institution only if:

- (1) all the holders of the joint account have unpaid tax liabilities; or
- (2) the taxpayer can withdraw funds from the account, other than a partnership account, without the signature or authorization of the other account holders.

(e) If a payer served with a notice under subsection (a) is unable to comply with the notice, the payer must notify the Director, in writing, within fourteen (14) days after receipt of the notice, setting out the reasons for the payer's inability to comply. If a notice is served on the Director under this subsection, the Director must, by notice in writing:

- (1) accept the notification and cancel or amend the notice issued under subsection (a); or
- (2) reject the notification.

(f) A payer who has notified the Director under subsection (e) must not deal with any monies to which the notice under subsection (a) applies before being served with a notice of decision under subsection (e).

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



- (h) A copy of a notice served on a payer under this section must be served on the taxpayer.
- (i) 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 indemnified in respect of the payment.
- (j) 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 and the Director may recover this amount under this chapter as if the amount were unpaid tax.

**Source**

RPPL 11-11 § 8, modified.

**§ 1612. Duties of appointed persons.**

- (a) An administrator, executor, receiver, trustee in bankruptcy, or liquidator, referred to as “the appointed person” in this section, appointed to manage, administer, liquidate, or wind up the affairs of a taxpayer, including a deceased taxpayer, must notify the Director, in writing, of the appointment within fifteen (15) days of the date of the appointment.
- (b) Within one (1) month after receipt of a notice under subsection (a), the Director must notify the appointed person, in writing, of the amount of any unpaid tax of the taxpayer or tax that will become payable by the taxpayer.
- (c) Subject to subsection (d), an appointed person:
  - (1) must not, without the leave of the Director, dispose of any asset of the taxpayer until a notice has been served on the appointed person under subsection (b) or the one-month period referred to in subsection (b) has passed without a notice being served on the appointed person under that subsection;
  - (2) 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 (b), or the whole of the assets if their value is less than the amount notified; and
  - (3) is, to the extent of the value of the assets required to be set aside under paragraph (2), personally liable for the tax due by the taxpayer.

(d) An appointed person may pay the following amounts in priority to the amount notified under subsection (b):

(1) the expenses properly incurred by the trustee in the capacity as such, including the trustee's remuneration; and

(2) a debt that has priority, in law or equity, over the tax payable by the taxpayer.

(e) If two (2) or more persons are appointed persons in respect of a taxpayer, the obligations and liabilities under this section apply jointly and severally to the appointed persons but may be discharged by any of them.

(f) The Director may recover under this chapter the amount that an appointed person is personally liable for under subsection (c)(3) as if the amount were unpaid tax.

**Source**

RPPL 11-11 § 8, modified.

**§ 1613. Security.**

(a) The Director may, if there is reason to believe that a taxpayer will not pay tax when it becomes payable, require the taxpayer, by notice in writing, to give security by bond, deposit, or otherwise, in such amount as the Director thinks fit having regard to the anticipated tax liabilities of the taxpayer.

(b) If a taxpayer fails to comply with a notice under subsection (a), the Director may recover the amount of the security under this chapter as if the unpaid security is unpaid tax.

**Source**

RPPL 11-11 § 8, modified.

**§ 1614. Taxpayer unable to meet its tax liability.**

(a) Subject to subsection (b), if a scheme has been entered into with the purpose or effect of rendering an entity unable to satisfy a current or future tax liability under this division, every person who was a director or controlling member of the entity when the scheme was entered into is jointly and severally liable for the unpaid tax or future tax liability of the entity.

- (b) A director of an entity is not liable under subsection (a) for the tax liability of the entity if the director derived no financial or other benefit from the scheme and:
- (1) the director has, on becoming aware of the scheme, formally recorded with the entity his or her dissent and notified the Director, in writing, of the scheme; or
  - (2) at the time the arrangement was entered into, the director was not involved in the executive management of the entity and had no knowledge of and could not reasonably have been expected to know of the arrangement.
- (c) If a taxpayer, referred to as “the transferor” in this section, has a tax liability in relation to a business carried on by the taxpayer and the taxpayer has transferred all or some of the assets of the business to an associate, referred to as “the transferee” in this section, the transferee is liable for the tax liability, referred to as “the transferred liability” in this section, of the transferor.
- (d) Subsection (c) does not preclude the Director from recovering the whole or part of the transferred liability from the transferor.
- (e) The Director may recover under this chapter an amount that a director, controlling member, or transferee is personally liable for under this section as if the amount were unpaid tax.
- (f) In this section:
- (1) “Controlling member,” in relation to an entity, means a member who beneficially holds, either alone or together with an associate or associates:
    - (A) fifty percent (50%) or more of the voting rights attaching to membership interests in the entity;
    - (B) fifty percent (50%) or more of the rights to dividends attaching to membership interests in the entity; or
    - (C) fifty percent (50%) or more of the rights to capital attaching to membership interests in the entity.
  - (2) “Entity” means a company, partnership, trust, estate, or other body of persons.

(3) “Member,” in relation to an entity, means a shareholder in a company, a partner in a partnership, a beneficiary under a trust, or any other person with a membership interest in the entity.

(4) “Membership interest,” in relation to an entity, means a share in a company, an interest in a partnership or trust, or other ownership interest in the entity.

**Source**

RPPL 11-11 § 8, modified.

**§ 1615. Implementation of treaties providing for mutual administrative assistance.**

(a) If a treaty providing for mutual administrative assistance in tax matters having legal effect in the Republic provides for exchange of information, or reciprocal assistance in the recovery of tax or service of process, the Director must use the powers available under this Division or any other law to meet the Republic’s obligations under the treaty on the basis that a reference in this division or other law:

(1) to “tax” includes a foreign tax to which the exchange of information or reciprocal assistance relates;

(2) to “unpaid tax” includes an amount specified in subsection (a)(1) that has not been paid by the due date;

(3) to “taxpayer” includes a person liable for an amount specified in subsection (a)(1); and

(4) to “Division 2” includes the law under which a foreign tax specified in subsection (a)(1) is imposed.

(b) If the person holding the office of the Republic’s competent authority under a treaty to which subsection (a) applies, or the delegate of such person, is not the Director, the person has all the powers of the Director under this division for the purposes of meeting the person’s obligations under the treaty.

**Source**

RPPL 11-11 § 8, modified.

**Chapter 17  
Penalties and Interest**

- § 1701. Penalties.
- § 1702. Interest.
- § 1703. Business license revocation.
- § 1704. General penalty.
- § 1705. Tax shortfall penalty.
- § 1706. False or misleading statement penalty.
- § 1707. Assessment of 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 ten percent (10%) of the amount for each thirty (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 thirty (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 twenty five percent (25%) 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 less than one thousand dollars (\$1,000) but not more than ten thousand dollars (\$10,000), 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 fifty percent (50%) of the tax owed under the return. If no tax is payable under the return, the penalty shall be no less than one thousand dollars (\$1,000) but no more than ten thousand dollars (\$10,000).
- (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 fifty dollars (\$50) penalty for each statement not filed.

(e) Failure to keep proper records – any person who, without reasonable excuse, fails to keep, retain, or maintain any record as required for the purposes of a tax imposed under this Division for a tax period is liable for a penalty equal to twenty-five percent (25%) of the tax payable for the period. If no tax is payable for the tax period, the penalty shall be no less than five hundred dollars (\$500) but no more than five thousand dollars (\$5,000).

(f) Hindering or obstructing tax officer—any person who hinders or obstructs an officer in the performance of duties under this division commits an offense and shall, upon conviction, be subject to a fine not exceeding five thousand dollars (\$5,000), imprisonment not exceeding one (1) year, or both.

(g) Breach of confidentiality—a person who violates section 1803(a) or (b) of this division commits an offense and shall, upon conviction, be subject to a fine not exceeding five thousand dollars (\$5,000), imprisonment not exceeding one (1) year, or both.

#### Source

RPPL 1-63 § 801, modified. Subsection (c) amended and subsections (e),(f) and (g) are added by RPPL 11-11 § 9, modified.

#### Notes

Pamintuan v. ROP, 16 ROP 32, 43, 44 (2008).

Isechal v. ROP, 15 ROP 78, 81 (2008).

### § 1702. Interest.

(a) 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 (3%) per month from its due date until the date it is paid, except for road use taxes in cases where the late payment of road use taxes is due to mechanical repair or any other reasonable justification to be determined by the Director of the Bureau of Public Safety. In such cases, only the applicable road use tax shall be charged.

(b) Interest payable under subsection (a) is applied in addition to any penalty imposed under section 1701(a) for late payment of tax.

(c) Interest paid will be refunded to the extent that the principal amount to which the interest relates is found not to have been payable.

(d) Interest in respect of withholding tax payable by a person is borne personally by the person and is not recoverable from any other person.

**Source**

RPPL 1-63 § 802, modified. Amended by RPPL 9-21 § 9. Amended by RPPL 11-11 § 9, modified.

**§ 1703. Business license revocation.**

(a) 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.

(b) If a taxpayer continues to carry on the business after the taxpayer's business license has been suspended or revoked under this section, the Director may proceed to lock the business premises of the taxpayer and affix in a conspicuous place on the business premises a notice duly certified by the Director bearing the words: "CLOSED TEMPORARILY FOR NOT COMPLYING WITH TAX OBLIGATIONS."

(c) If a taxpayer continues to carry on a business after a business license has been suspended or revoked under this section and after the business premises have been locked, the taxpayer is liable for a penalty of five hundred dollars (\$500) for each day that the business is in operation after the business license was suspended or revoked and the business premises were locked. The penalty is in addition to any other penalties or offenses that may apply.

**Source**

RPPL 1-63 § 803, modified. Amended by RPPL 11-11 § 9.

**Notes**

Isechal v. ROP, 15 ROP 78, 79, 80 (2008).

**§ 1704. General penalty.**

A person who willfully violates any of the provisions of this division, or any rule or regulations issued hereunder, for which there is no designated penalty commits an offense and shall, upon conviction, be subject to a fine not exceeding five thousand dollars (\$5,000), or to imprisonment

for not more than one (1) year, or both.

**Source**

RPPL 1-63 § 804, modified. Amended by RPPL 11-11 § 9.

**Notes**

Pamintuan v. ROP, 16 ROP 32, 34, 44 (2008).

Isechal v. ROP, 15 ROP 78, 79, 81 (2008).

**§ 1705. Tax shortfall penalty.**

(a) This section applies to a person:

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

(2) the tax liability of the person or of another person computed on the basis of the statement is less than it would have been if the statement had not been false or misleading, the difference being referred to as “the tax shortfall” in this section.

(b) Subject to subsections (c) and (d), a person to whom this section applies is liable for a tax shortfall penalty equal to:

(1) if the statement or omission was made knowingly or recklessly, seventy-five percent (75%) of the tax shortfall; or

(2) in any other case, twenty percent (20%) of the tax shortfall.

(c) The rate of a tax shortfall penalty imposed under subsection (b) on a person is increased by:

(1) ten (10) percentage points if this is the second application of this section to the person; or

(2) twenty-five (25) percentage points if this is the third or a subsequent application of this section to the person.

(d) The rate of a tax shortfall penalty imposed under subsection (b) on a person is reduced by ten (10) percentage points if the person voluntarily discloses the statement or



omission to which the section applies prior to the earlier of:

- (1) discovery by the Director of the tax shortfall; or
- (2) the commencement of an audit of the tax affairs of the person to whom the statement relates.

(e) No tax shortfall penalty is payable under subsection (b) if:

- (1) 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;
- (2) the tax shortfall arose as a result of a taxpayer taking a reasonably arguable position on the application of a tax law to the taxpayer's circumstances in submitting a self-assessment return; or
- (3) the failure was due to a clerical or similar error, other than a repeated clerical or similar error.

(f) A position taken by a taxpayer in making a self-assessment that is contrary to regulations promulgated by the Minister of Finance and in force at the time the statement was made is not a reasonably arguable position for the purposes of subsection (e)(2).

(g) Nothing in subsection (e) prevents the imposition of late payment interest in respect of a tax shortfall if the tax is not paid by the due date for payment.

(h) For the purposes of this section and section 1706, a statement made to a public officer includes a statement made, in writing or orally, in any of the following circumstances:

- (1) in any application, certificate, declaration, notification, return, objection, or other document submitted or lodged under a provision of this division or any other tax;
- (2) in any information required to be provided under a provision of this division;
- (3) in any document provided to a public officer;
- (4) in answer to a question asked of a person by a public officer;

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

**Source**

RPPL 11-11 § 9, modified.

**§ 1706. False or misleading statement penalty.**

(a) A person who makes a statement to a public officer that is false or misleading as specified in section 1705(a)(1) but which does not result in a tax shortfall is liable for a penalty not exceeding two thousand dollars (\$2,000).

(b) No penalty applies under subsection (a) in the circumstances specified in section 1705(e).

**Source**

RPPL 11-11 § 9, modified.

**§ 1707. Assessment of penalty.**

(a) A person is liable for a penalty under this division only if the Director serves the person with a notice of a penalty assessment stating the amount of penalty payable, the due date for payment, and any other matters as required under the regulations.

(b) Penalty payable by a person is due on the date specified in the notice of assessment served on the person under subsection (a).

**Source**

RPPL 11-11 § 9, modified.

**Chapter 18**  
**Administration**

- § 1801. Powers and duties of the Director.
- § 1802. Exchange of tax information.
- § 1803. Confidentiality of tax information.
- § 1804. Prohibited employment.
- § 1805. Legislative appropriations allotment.
- § 1806. Manner of lodging or serving documents.
- § 1807. Electronic notices and payments.
- § 1808. Rectification of mistakes.

**§ 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 Finance, 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 imposed in accordance with this division;
  - (3) the reasons for the compromise; and
  - (4) the approval of the Minister of Finance.
- (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 Finance, 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.
- (m) the power to enter any premises or place to inspect and examine documents, including in electronic format, property, or data storage devices of any person for the purposes of obtaining information necessary for the administration of any tax imposed under this division and, for this purpose, may make a copy, including in electronic format, of any document or information on a data storage device to which access is sought under this subsection; however, in exercising this power, the Director must:
- (1) give no less than twenty-four (24) hours prior written notice of the Director's intent to enter to take action under this subsection; or

(2) obtain a warrant to enter a premises or place under this subsection, if the Director does not provide any notice under paragraph (1).

(n) the power to require a person, by the date specified by notice in writing:

(1) to provide any information, orally or in writing, as the Director may require;

(2) to attend and give evidence concerning the person's or any other person's tax affairs;

(3) to produce any record, including in electronic format, in the person's custody or under the person's control relating to the person's or any other person's tax affairs; and

(4) to provide access to information stored in an electronic information storage facility, including the entering of a password or other basis of authentication for access to the facility.

(o) the power to require a taxpayer to provide a stock take of inventory on hand and to take steps to verify the stock take information provided by the taxpayer.

**Source**

RPPL 1-63 § 901, modified. Subsection (h) amended by RPPL 5-7 § 31. Subsections (m),(n) and (o) added by RPPL 11-11 § 10, modified.

**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.

**§ 1803. Confidentiality of tax information.**

(a) An employee of the Bureau shall not divulge any document or information relating to

any tax that is, or has been, in the knowledge or possession of the employee in connection with the performance of duties under this Division, to any person, except:

- (1) an employee of the Bureau of National Treasury for official purposes;
- (2) an authorized tax official of a State for the purposes of section 1802;
- (3) an authorized official of the agency responsible for statistics, solely for the purpose of collection, compilation, and analysis of official statistics under the provisions of the Statistics Act;
- (4) to a Court in relation to any proceedings under this Division;
- (5) to the competent authority of the government of a foreign country with which the Republic has entered into an agreement providing for the exchange of information, to the extent permitted under that agreement; or
- (6) any other person with the written consent of the person to whom the document or information relates.

(b) A person to whom a document or information has been provided in accordance with subsection (a) must not divulge the document or information to any person except to the extent necessary for the official purpose for which the document or information was provided.

(c) Notwithstanding subsection (a), any information obtained by the competent authority of the Republic from the competent authority of a country or territory with which the Republic has entered into a treaty for mutual administrative assistance may be disclosed only to the extent permitted under the treaty.

**Source**

RPPL 1-63 § 903. Amended in its entirety by RPPL 11-11 § 10, modified.

**§ 1804. Prohibited employment.**

The Director and every employee of the Bureau of Revenue, Customs and Taxation while in such employment and for three (3) 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, modified.

**§ 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 twenty five percent (25%) of all funds appropriated pursuant to this section, and may direct the Minister of Finance 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.

**§ 1806. Manner of lodging or serving documents.**

(a) Subject to section 1807, the Director must promulgate regulations specifying the manner in which:

- (1) an application, notice, or other document is to be filed or lodged with the Director; or
- (2) a notice or other document is to be served on a taxpayer by the Director.

**Source**

RPPL 11-11 § 10, modified.

**§ 1807. Electronic notices and payments.**

The Director may establish and operate a procedure for electronic filing of returns or other documents, and payment of tax, to the Director and electronic service of notices and other documents by the Director as prescribed in regulations.

**Source**  
RPPL 11-11 § 10.

**§ 1808. Rectification of mistakes.**

If a notice of assessment served, or other document issued, by the Director under this division contains a mistake that is apparent from the record and the mistake does not involve a dispute as to the interpretation of the law or facts of the case, the Director may, for the purposes of rectifying the mistake, amend the assessment or document any time before the expiry of three (3) years from the date of serving the notice of assessment or issuing the document.

**Source**  
RPPL 11-11 § 10.



**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.

§ 2002. Tax exemption for Virtual Pachinko Business and Internet Digits Lottery Game Business.

**§ 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.

**§ 2002. Tax exemption for Virtual Pachinko Business and Internet Digits Lottery Game Business.**

All revenues, income, and dividends from a Virtual Pachinko Business or an Internet Digits Lottery Game Business which has been granted [an] exclusive Concession pursuant to 11 PNC chapter 14 shall be exempt from taxation under 40 PNC Division 2, as amended, and any succeeding tax statute, and shall be considered for purposes of 40 PNC chapter 21 to be a matter already taxed or charged by the national government.

**Source**  
RPPL 5-45 § 1(c), modified.

**Note**  
The bracketed [an] read “and” in the original legislation.

**Chapter 21**  
**State Taxation**

- § 2101. Findings.
- § 2102. Power to levy taxes.
- § 2103. Submission to Minister of Justice.
- § 2104. Repeal.
- § 2105. Severability and saving clause.

**§ 2101. Findings.**

The Olbiil Era Kelulau finds that the Palau Constitution expressly gives all governmental powers to the national government; provided, however that the national government may by law delegate various powers to the state governments and that, subject to laws enacted by the Olbiil Era Kelulau, the state may impose taxes. The Olbiil Era Kelulau finds that it has enacted no laws which delegate any authority to the state governments nor has it enacted any laws which authorize the state governments to enact tax measures. The Olbiil Era Kelulau further finds that certain state governments have enacted various tax measures which have not been authorized by law, which have not been approved by the Olbiil Era Kelulau, and which are subject to laws enacted by the Olbiil Era Kelulau. The Olbiil Era Kelulau further finds that the state tax measures which have been passed are creating a situation which is discouraging investment and inhibiting economic development throughout the Republic due to the lack of uniformity and uncertainty in financial and taxation matters in the Republic of Palau. The Olbiil Era Kelulau finds that the state tax measures which have been enacted are not justified by any services or benefits provided by the state governments. Finally the Olbiil Era Kelulau finds that the state tax measures which have been enacted are inhibiting commerce among the several states of the Republic.

**Source**

RPPL 3-35 § 1, modified.

**Cross-reference**

ROP Const., Art. XI.

**Notes**

Subsections previously codified with number designations have been recodified with letter designations to comply with Code format.

Koror State Gov't v. Republic of Palau, 19 ROP 174, 176 (Tr. Div. 2012).

**§ 2102. Power to levy taxes.**

(a) The state governments of the Republic are hereby prohibited from enacting any taxes or fees on persons, goods, services, sales, income, activities, objects, or other matters already taxed or charged by the national government. If the national government enacts a tax or fee on any persons, goods, services, sales, income, activities, objects, or other matters taxed or charged by any state government, such enactment shall automatically nullify the provisions of any state law imposing a tax or fee on such items.

(b) Any provision of state law presently imposing a tax or fee on any persons, goods, services, sales, income, activities, objects, or other matters taxed or charged by the national government is null and void and of no effect.

(c) No enactment of a state government which would impose a tax, charge, or fee shall be effective unless such enactment shall contain a detailed description of the activity, purchase, or other purposes to be accomplished with the revenue to be generated thereby, and a specific date of termination of such tax, charge, or fee reflecting the anticipated achievement of the objective of the enactment.

**Source**

RPPL 3-35 § 2, modified.

**Notes**

Koror State Gov't v. Republic of Palau, 19 ROP 174, 175, 176, 178 (Tr. Div. 2012).

KSG v. ROP, 3 ROP Intrm. 127, 128 (1992).

**§ 2103. Submission to Minister of Justice.**

(a) Within thirty (30) days after the effective date of this chapter every state government shall submit to the Minister of Justice for review every state law which has been enacted since 1981 imposing taxes or fees upon persons, goods, services, sales, income, activities, objects, or other matters. The Minister of Justice shall, in conjunction with the Attorney General and within thirty (30) days of such submissions, render a determination as to whether any such enactments are determined to violate section 2102 of this chapter, such enactment shall be declared null and void ab initio and of no effect.

(b) Every state government, upon enactment of any law imposing taxes or fees upon persons, goods, services, sales, income, activities, objects, or other matters, shall submit such enactment to the Minister of Justice for review. The Minister of Justice shall, in conjunction with the Attorney General and within ten (10) days of such submission,

render a determination as to whether such enactment is violative of section 2102 of this chapter. If such enactment is determined to violate section 2102 of this chapter, it shall be void and of no effect. No such enactment shall be effective until it is determined to be not violative of section 2102 of this chapter in accordance with this section.

**Source**

RPPL 3-35 § 3, modified.

**Notes**

Koror State Gov't v. Republic of Palau, 19 ROP 174, 175, 176 (Tr. Div. 2012).

**§ 2104. Repeal.**

This chapter shall repeal every other inconsistent law to the extent of such inconsistency.

**Source**

RPPL 3-35 § 4, modified.

**§ 2105. Severability and saving clause.**

If a court of competent jurisdiction holds that a part or parts of this chapter are unlawful, such holding shall not effect or invalidate any of the remaining parts of this chapter.

**Source**

RPPL 3-35 § 5, modified.

**Chapter 22**  
**State Block Grants**

- § 2201. Audit compliance.
- § 2202. Withholding of state block grant; certification by Public Auditor.
- § 2203. Release of withheld block grant funds.
- § 2204. Notification of audit recommendations and negative findings.
- § 2205. Ongoing oversight; revocation of certification.
- § 2206. Reporting; failure to report.
- § 2207. Deposit in state treasury.
- § 2208. Regulation.
- § 2209. Sponsorol State. [Repealed]
- § 2210. State payroll.
- § 2211. Withholding of block grants to fund Civil Service Pension Plan.
- § 2212. Withholding of block grants to reimburse the National Treasury.

**§ 2201. Audit compliance.**

Each State Government of the Republic shall take affirmative action to comply with all recommendations and to remedy all conditions resulting in negative findings, including failure to provide adequate information, set forth in any audit report on such State Government or subdivision thereof.

**Source**

RPPL 3-60 § 17(1)(a). Restated in substance in: RPPL 4-10 § 6(1)(a); RPPL 4-26 § 11(2)(a); RPPL 4-32 § 6(2)(a); RPPL 4-38 § 6(3)(a); RPPL 4-40 § 6(2)(a) and RPPL 4-55 § 6(2)(a). RPPL 4-55 was not codified and was not repealed. Heading amended by RPPL 5-7 § 6(2).

**Notes**

RPPL 4-26 was repealed in its entirety by RPPL 4-32 § 49. RPPL 4-38 was repealed in its entirety by RPPL 4-40 § 46. Previously codified at 5 PNC § 401; recodified by RPPL 5-7 § 6(2).

**§ 2202. Withholding of state block grant; certification by Public Auditor.**

No person may disburse from the National Treasury, and no State Government may receive, a further allotment of any block grant appropriation from the National Government later than forty-five (45) days after the issuance of an audit report on that State Government by the Public Auditor unless the Public Auditor has certified that all recommendations contained in such report have been complied with and that all conditions leading to negative findings have been remedied.

**Source**

RPPL 3-60 § 17(1)(b). Restated in substance and amended by RPPL 4-10 § 6(1)(b); RPPL 4-26 § 11(2)(b); RPPL 4-32 § 6(2)(b); RPPL 4-38 § 6(3)(b); RPPL 4-40 § 6(2)(a) and RPPL 4-55 § 6(2)(b). RPPL 4-55 was not codified and was not repealed. Amended by RPPL 5-7 § 6(2).

**Notes**

RPPL 4-26 was repealed in its entirety by RPPL 4-32 § 49. The language of this section in RPPL 4-38 is significantly different. RPPL 4-38 was repealed in its entirety by RPPL 4-40 § 46. Previously codified at 5 PNC § 402; recodified by RPPL 5-7 § 6(2).

Koror State Gov't v. Republic of Palau, 19 ROP 174, 175 (Tr. Div. 2012).

**§ 2203. Release of withheld block grant funds.**

Upon the certification by the Public Auditor as provided by section 2202, all withheld block grant allotments to the State Government concerned shall be released to such State Government as soon as the availability of funds permits.

**Source**

RPPL 3-60 § 17(1)(c). Restated in substance in: RPPL 4-10 § 6(1)(c); RPPL 4-26 § 11(2)(c); RPPL 4-32 § 6(2)(c); RPPL 4-38 § 6(3)(c); RPPL 4-40 § 6(2)(a) and RPPL 4-55 § 6(2)(c). RPPL 4-55 was not codified and was not repealed. Amended by RPPL 5-7 § 6(2).

**Notes**

RPPL 4-26 was repealed in its entirety by RPPL 4-32 § 49. RPPL 4-38 was repealed in its entirety by RPPL 4-40 § 46. Previously codified at 5 PNC § 403; recodified by RPPL 5-7 § 6(2).

**§ 2204. Notification of audit recommendations and negative findings.**

Upon the issuance by the Public Auditor of a State Government Audit Report which contains any recommendations or negative findings, the Public Auditor shall notify the Minister of Finance and the presiding officers of the Olbiil Era Kelulau. The Minister of Finance shall serve notice on the State Government of the mandatory withholding of block grant allotments and shall promptly implement such withholding in the event that the State Government fails to timely obtain the certification required by section 2202. Failure by the Minister of Finance to serve such notice shall not be grounds for postponement or cancellation of the withholding.

**Source**

RPPL 3-60 § 17(1)(d). Restated in substance in: RPPL 4-10 § 6(1)(d); RPPL 4-26 § 11(2)(d); RPPL 4-32 § 6(2)(d); RPPL 4-38 § 6(3)(d); RPPL 4-40 § 6(2)(a) and RPPL 4-55 § 6(2)(d). RPPL 4-55 was not codified and was not repealed. Amended by RPPL 5-7 § 6(2).

**Notes**

RPPL 4-26 was repealed in its entirety by RPPL 4-32 § 49. RPPL 4-38 was repealed in its entirety by RPPL 4-40 § 46. Previously codified at 5 PNC § 404; recodified by RPPL 5-7 § 6(2).

**§ 2205. Ongoing oversight; revocation of certification.**

The Public Auditor shall maintain ongoing oversight of state government actions to comply with audit recommendations or to remedy conditions leading to negative findings. A certification granted pursuant to section 2202 may be revoked if the state government concerned does not, in the opinion of the Public Auditor, adequately continue to engage in the corrective actions that resulted in the initial grant of the certification. The Minister of Finance shall, commencing thirty (30) days following such a loss of certification, withhold further block grant allotment funding from the state government until the certification has been reinstated.

**Source**

RPPL 3-60 § 17(1)(e). Restated in substance and amended by RPPL 4-10 § 6(1)(e); RPPL 4-26 § 11(2)(e); RPPL 4-32 § 6(2)(e); RPPL 4-38 § 6(3)(e); RPPL 4-40 § 6(2)(a) and RPPL 4-55 § 6(2)(e). RPPL 4-55 was not codified and was not repealed. Amended by RPPL 5-7 § 6(2), modified.

**Notes**

RPPL 4-26 was repealed in its entirety by RPPL 4-32 § 49. RPPL 4-38 was repealed in its entirety by RPPL 4-40 § 46. Previously codified at 5 PNC § 405; recodified by RPPL 5-7 § 6(2).

**§ 2206. Reporting; failure to report.**

The Bureau of National Treasury shall submit a financial report to the Olbiil Era Kelulau detailing the amount of funding made upon disbursement of block grants to recipients thereof, and each state government receiving funds in the form of block grants shall submit within thirty (30) days of the date each funded project is completed a financial report to the Olbiil Era Kelulau and Minister of Finance detailing how the funds were spent. A state government may use its discretion to determine appropriate expenditures out of its block grant for salaries, wages, capital improvement projects, and community programs. If the report is not submitted, the National Treasury may not disburse and the state government may not receive any further allotment of any block grant appropriation from the national government.

**Source**

RPPL 3-60 § 17(2). Restated in substance and amended by RPPL 4-10 § 6(2); RPPL 4-26 § 11(3), RPPL 4-32 § 6(3), RPPL 4-38 § 6(2)(a) and (b); RPPL 4-40 § 6(3) and RPPL 4-55 § 6(3) and (5). RPPL 4-55 was not codified and was not repealed. Amended by RPPL 5-7 § 6(2), modified. Amended by RPPL 5-15 § 21. Amended by RPPL 5-34 § 6(2). Amended in its entirety by RPPL 7-37 § 24, modified.



**Notes**

RPPL 4-1 § 21(2) repealed RPPL 3-60 “§ 17(e)(2)”. RPPL 4-26 was repealed in its entirety by RPPL 4-32 § 49. RPPL 4-38 was repealed in its entirety by RPPL 4-40 § 46. See also the last paragraph of RPPL 4-1 § 5(A). Previously codified at 5 PNC § 406; recodified by RPPL 5-7 § 6(2).

Fanna v. Sonsorol State Government, 8 ROP Intrm. 9, 13, 14 (1999).

**§ 2207. Deposit in state treasury; capital infrastructure projects.**

(a) No state may expend any of the funds appropriated for that state in any national appropriations legislation, including funds which a state governor is responsible for allocating or allotting, until the state deposits those funds into the state treasury and enacts state appropriations legislation. The Bureau of the National Treasury may not disburse any state block grant or other funds to a state unless and until the state transmits to the Bureau a certified copy of duly adopted state legislation appropriating those funds.

(b) No funds may be disbursed for any state capital improvement project for which a state governor is responsible for allocating or allotting funds until thirty (30) days after the state submits a project plan to the Bureau of National Treasury, the Senate and the House of Delegates for review and comment. The plan shall be prepared by the governor and approved by law by the state legislature. The plan shall describe, at a minimum, the scope of the project, the estimated total cost, and the estimated time it will take to complete the project.

(c) After initial funds have been disbursed by the Bureau of the National Treasury for any state capital infrastructure project, including any project for which a state governor is responsible for allocating or allotting funds, additional funds may not be disbursed until the state provides status reports that show to the satisfaction of the Director that adequate progress is being made on the project such that additional disbursement is appropriate.

**Source**

RPPL 4-55 § 6(6) and RPPL 5-7 § 6(2), which were not codified and were not repealed. Amended by 5-8 § 8, modified. Subsection (b) is amended by RPPL 5-41 § 34 (b).

**Notes**

Subsection divisions added to conform to Code format.

**§ 2208. Regulation.**

The Minister of Finance and the Public Auditor shall jointly promulgate such rules and

regulations as are necessary to effectuate the purposes of this chapter.

**Source**

RPPL 3-60 § 17(3). Restated in substance and amended by RPPL 4-10 § 6(3); RPPL 4-26 § 11(4); RPPL 4-32 § 6(4); RPPL 4-40 § 6(2)(a) and RPPL 4-55 § 6(4). RPPL 4-55 was not codified and was not repealed. “May” amended to “shall” by RPPL 5-7 § 6(2).

**Notes**

RPPL 4-26 was repealed in its entirety by RPPL 4-32 § 49. This section does not appear in RPPL 4-38. Previously codified at 5 PNC § 407; recodified by RPPL 5-7 § 6(2).

**§ 2209. Sponsorol State. [Repealed]**

**Source**

RPPL 5-7 § 6(2). Repealed in its entirety by RPPL 9-5 § 24.

**§ 2210. State payroll.**

For those States for which the Bureau of National Treasury provides central payroll administration services, the Bureau of National Treasury shall withhold each state’s total amount of income withholding taxes, social security contributions and pension plan contributions payable in accordance with law, and shall remit such amounts to the appropriate agencies. For those states which administer their own payroll systems, the Bureau of National Treasury shall establish administrative procedures for ensuring that those states pay income withholding taxes, social security contributions and pension plan contributions to the appropriate agencies in accordance with law, and for retaining such amounts of state block grant funds as are necessary to ensure that such tax and contribution payments are properly and timely remitted.

**Source**

RPPL 4-55 § 6(7), modified. Amended by RPPL 5-15 § 21.

**Notes**

RPPL 5-15 § 21 shall take effect 90 days after effective date (September 30, 1998).

**§2211. Withholding of block grants to fund Civil Service Pension Plan.**

The Minister of Finance shall withhold the lesser of twenty percent (20%) of the annual block grant or the amount actually owed, for any State which is delinquent in its contributions to the Civil Service Pension Plan Trust Fund or Social Security Trust Fund on behalf of its State employees. The Minister shall redirect any funds so withheld to the appropriate Trust Fund.

Within thirty (30) days from the effective date of this section, and within thirty (30) days following the end of each fiscal year, the Board of Trustees of the Civil Service Pension Plan and Social Security Trust Fund shall submit to the Minister a list of each State that is delinquent in its contributions and the amount of the delinquency, and the Minister shall make the appropriate deductions.

**Source**

RPPL 5-41 § 33(a), modified.

**§ 2212. Withholding of block grants to reimburse the National Treasury.**

The Minister of Finance shall withhold the lesser of twenty percent (20%) of the annual block grant or the amount actually owed, for any State which is delinquent in its contributions to the Bureau of Revenue, Customs and Taxation for taxes withheld on the wages and salaries on behalf of its State employees. The Minister shall redirect any funds so withheld to the appropriate fund of the National Treasury. Within thirty (30) days from the effective date of this section, and within thirty (30) days following the end of each fiscal year, the Bureau of Revenue, Customs and Taxation shall submit to the Minister a list of each State that is delinquent in its contributions and the amount of the delinquency, and the Minister shall make the appropriate deductions.

**Source**

RPPL 5-47 § 28(a).

**Chapter 23**

**Tax Incentives for Development of Agricultural and Aquacultural Industries in Palau**

- § 2301. Purpose.
- § 2302. Definitions.
- § 2303. Operation of fishing vessels excluded.
- § 2304. Tax incentives.
- § 2305. Determination of qualification for tax incentives.
- § 2306. Regulations.
- § 2307. Tax incentives; licensing and issuance.
- § 2308. Same; not to be deemed right or privilege of the applicant.
- § 2309. Same; limited purpose.
- § 2310. Same; limitation on number issued
- § 2311. Sunset provision.

**§ 2301. Purpose.**

This chapter sets forth a program of tax incentives which may be offered for the purpose of developing sustainable agricultural, maricultural, and aquacultural projects which have been determined to be essential to the welfare of the Republic of Palau and its economy.

**Source**  
RPPL 6-42 § 2.

**§ 2302. Definitions.**

For purposes of this chapter, the following definitions shall be used, unless the context indicates otherwise:

- (a) “Agricultural project” includes any of the following:
  - (1) the operation of a facility for the breeding, raising, growing, or maintenance of livestock, poultry, pigs, or similar animal husbandry activities for the production of eggs, meat, milk, or other dairy products; or
  - (2) the raising, growing, or maintenance of vegetables, fruit, grains, or other plant products for food, medicinal, or other purposes, for sale, use, or consumption within the Republic or for export.

(b) “Aquacultural project or maricultural project” includes the breeding, raising, growing, or maintenance within a confined or specifically designated area in either salt or fresh water of any fish stocks, clams, mollusks, crabs, shrimp, lobsters, sea cucumbers, sea weed, and other sea plants, for food, medicinal, or other purposes, or for aquarium purposes, for sale, use, or consumption within the Republic or for export.

**Source**  
RPPL 6-42 § 2.

**§ 2303. Operation of fishing vessels excluded.**

For purposes of this chapter, the operation of a fishing vessel, whether foreign or domestic, for purposes of catching fish and other sea products from the open sea or from an unconfined or non-designated area shall not be considered as an aquacultural or maricultural project eligible for the tax incentives offered herein.

**Source**  
RPPL 6-42 § 2.

**§ 2304. Tax incentives.**

(a) The following tax incentives maybe offered to qualified agricultural, maricultural, and aquacultural projects with an investment value of not less than fifty thousand dollars (\$50,000):

(1) waiver of import taxes for a period not to exceed five (5) years on: seeds; fertilizers; feed for poultry, hogs, and other livestock; insecticides or other pest control products; breeding stock; starter plants and stock; small hand tools; and other equipment used solely for the purpose of agricultural, maricultural, and aquacultural projects; for purposes of this chapter, equipment shall include but not be limited to tractors, chippers/shredders, and other similar machinery;

(2) application of a net income tax at the rate of four percent of net income in lieu of a gross revenue tax for a period not to exceed five (5) years.

(b) No tax incentives shall be granted after January 1, 2008.

**Source**  
RPPL 6-42 § 2, modified.

**§ 2305. Determination of qualification for tax incentives.**

Tax incentives may be granted under this chapter only to qualified agricultural, maricultural, or aquacultural projects. A “qualified agricultural, maricultural, or aquacultural project” shall be one that meets the following criteria:

- (a) The owner of the project must be a Palauan citizen or a domestic corporation chartered under the laws of the Republic;
- (b) The project must involve the growing of crops, gardens, produce, livestock, poultry, fish, shellfish, or other agricultural, maricultural, or aquacultural products;
- (c) The project must be approved by the Bureau of Agriculture for agricultural projects and the Bureau of Marine Resources for aquacultural and maricultural projects, pursuant to regulations within ten (10) working days from the date of submission of an application;
- (d) Once a project has been approved, the relevant Bureau must provide technical assistance to help the project meet Environmental Quality Protection Board requirements and ensure the EQPB has the information required to issue the necessary permits within sixty (60) days of application for the permit to the EQPB; and
- (e) The Environmental Quality Protection Board shall issue a permit for a qualified agriculture, mariculture and aquaculture project within sixty (60) days of the project’s application for the permit. The permit may set forth a schedule of conditions that must be met for the project to retain the permit.
- (f) The states of Ngiwal, Ngatpang, and Peleliu shall be deemed pilot project areas for the initial testing of the tax incentives program for aquaculture established by this chapter. Accordingly, the Environmental Quality Protection Board shall grant permits within thirty (30) days to all applicants for projects to be established in Ngiwal, Ngatpang, and Peleliu.

**Source**

RPPL 6-42 § 2, modified.

**§ 2306. Regulations.**

- (a) The Ministry of Public Infrastructure and Industries shall promulgate regulations consistent with this chapter pursuant to the Administrative Procedure Act, 6 PNC Chapter

1, as to the review and approval of qualified agricultural, maricultural, and aquacultural projects. Such regulations shall take into consideration the sustainability of the project in the future, the capacity of the project for future growth, and the resulting economic benefits to Palau and its citizens, within ninety (90) days from the effective date of this chapter.

(b) The Bureau of Revenue, Customs and Taxation shall promulgate regulations consistent with this chapter pursuant to the Administrative Procedure Act, 6 PNC Chapter 1, concerning the exemption of eligible items from import taxes and the application of net income tax to qualified projects. In determining the “net income” of a qualified project, the owner of the project shall be entitled to deduct from gross revenue the entire amount paid in salaries to citizen employees, fifty percent (50%) of the amount paid in salaries to noncitizen employees, the cost of raw materials, such as seeds, fertilizer, and other items which are consumed or otherwise depleted during the course of the project, utility costs, and equipment costs used in the project.

**Source**

RPPL 6-42 § 2, modified.

**§ 2307. Tax incentives; licensing and issuance.**

Pursuant to regulations, the Bureau of Agriculture shall issue a certificate to qualified agricultural, maricultural, or aquacultural projects which shall set forth the nature of the project and eligibility for waiver of import taxes or application of the net income tax or both. The time period for the tax waiver or reduction granted in the certificate shall commence on the date of the issuance of the certificate. A copy of the certificate shall be transmitted to the Bureau of Revenue, Customs and Taxation for use in determining exemption from import taxes and application of the net income tax. The certificate shall be renewable yearly up to a maximum of five (5) years from the date of original issuance, subject to the limitations set forth in section 2304 of this chapter. The certificate shall be non-transferable and subject to cancellation or suspension by the Ministry of Public Infrastructure and Industries when the owner ceases to operate the project or substantially changes the nature of the project from that originally proposed to, and reviewed and approved by, the Bureau of Agriculture. The certificate may be suspended, canceled, or revoked by the Ministry of Public Infrastructure and Industries if the owner or the project is determined by a non-appealable order of the relevant administrative agency or the Supreme Court to have violated any applicable laws, rules, or regulations.

**Source**

RPPL 6-42 § 2, modified.

**§ 2308. Same; not to be deemed right or privilege of the applicant.**

The grant of tax incentives pursuant to this chapter is a concession offered by the Republic for the purpose of economic development and is reserved for projects of substantial economic benefit to the Republic. There shall be no right of appeal from a decision denying the grant of such tax incentives.

**Source**

RPPL 6-42 § 2, modified.

**§ 2309. Same; limited purpose.**

The waiver of import taxes shall only be granted for those items listed in section 2304(a)(1) which are reasonably necessary for the conduct of the business or project. Regulations shall set forth the terms and conditions, consistent with section 2307, under which tax incentives may be revoked, suspended, or rescinded. Regulations shall set forth terms and conditions under which taxes waived by the Republic may be recouped in the event items treated as subject to the tax waiver or exemption are subsequently transferred to persons not entitled to such tax waiver or exemption or where such items are used in a manner not reasonably related to the business or project for which tax incentives have been granted. Items as to which the import tax has been waived shall not be transferred or sold within three (3) years of importation to a person or party ineligible to receive such tax waiver without written consent of the Bureau of Revenue, Customs and Taxation. Regulations may provide that excess, used, or abandoned items may be sold or transferred to a person who otherwise is ineligible to receive tax benefits under this chapter, provided that the applicable tax which was waived is paid by the seller prior to such sale or transfer.

**Source**

RPPL 6-42 § 2, modified.

**§ 2310. Same; limitation on number issued.**

At no time shall the number of active tax incentive agreements issued exceed five (5) in number.

**Source**

RPPL 6-42 § 2.



**§ 2311. Sunset provision.**

(a) This chapter shall expire January 1, 2008, unless otherwise extended by legislative act. Any tax incentives issued prior to, but which are still in effect as of January 1, 2008, shall be allowed to continue until their conclusion; however, no extensions may be granted thereafter.

(b) A report shall be made by the Ministry of Public Infrastructure and Industries to the President and the presiding officers of both houses of the Olbiil Era Kelulau on or before January 1, 2008, as to the impact this tax incentive program has had on agriculture, mariculture and aquaculture development in the Republic.

**Source**

RPPL 6-42 § 2, modified.

**Chapter 24**  
**National Capitol Complex Tax Free Zone**

- § 2401. Short title.
- § 2402. Definitions.
- § 2403. Tax free zone created.
- § 2404. Incentives to persons owning existing business or establishing new businesses within the Capitol TFZ.
- § 2405. Certificate of Qualification; application fee, criteria for issuance.
- § 2406. Criteria for the issuance of a Certificate of Qualification.
- § 2407. Effect of a Certificate of Qualification.
- § 2408. Liability for other taxes; compliance laws of the Republic.
- § 2409. Business licenses; delegation of authority to state of Melekeok.
- § 2410. Regulations.
- § 2411. Termination of Certificate of Qualification; recapture of taxes.

**§ 2401. Short title.**

This chapter may be cited as the National Capitol Complex Tax Free Zone Act.

**Source**

RPPL 8-20 § 1, modified.

**Notes**

RPPL 8-20 § 2 reads: Findings and purpose. The Olbiil Era Kelulau finds that it is in the best interests of the Republic to create a tax free zone in the area surrounding the National Capitol Complex at Ngerulmud, Melekeok State. As the Palau National Government relocates its employees to the National Capitol Complex, it is vitally important that new businesses be established and located nearby to spur the economic development of Babeldaob and to conveniently provide goods and services to that expanding population. The creation of a tax free zone will serve as an economic development tool to encourage and promote existing businesses and the establishment of new business and commercial activities to provide those goods and services. The Olbiil Era Kelulau a finds that it is in the best interests of the Republic to provide incentives in the form of tax relief to the owners of existing businesses and to persons establishing new businesses, located within the tax free zone. The Republic will benefit economically through the jobs created and provided by the existing businesses and by the new businesses established to take advantage of the tax free zone, and by other means.

**§ 2402. Definitions.**

As used in this chapter, unless the context requires otherwise:

**NATIONAL CAPITOL COMPLEX TAX FREE ZONE 40 PNCA § 2402**

- (a) “Applicant” means a person applying for the issuance of a Certificate of Qualification;
- (b) “Business” means, as the case may be:
  - (1) any type of commerce or trade; any activity engaged in, or caused to be engaged in, with the object of commercial gain or profit, either directly or indirectly; or
  - (2) the building or buildings from which the commerce, trade, or activity is conducted.
- (c) “Business license” means the permission granted by the National Government or any state government of the Republic, under the authority of law, to engage in a business or to practice a trade or profession.
- (d) “Capitol TFZ Enterprise” means, as the case may be:
  - (1) a business existing on or established after the effective date of this Act and located totally within the boundaries of the Capitol TFZ; or
  - (2) the building or buildings from which the Capitol TFZ Enterprise is conducting its business.
- (e) “Conduct” means to direct in action or course; manage; carry on.
- (f) [Reserved]
- (g) “Establish” means to build, bring into being, create or start.
- (h) “Existing business” means a business in existence on the effective date of this chapter and possessing current business licenses issued by the State of Melekeok and the Republic.
- (i) “Import” means to bring into the Republic from a foreign country for use, sale, processing, or re-export.
- (j) “Manufacture” means the making, preparing or producing of anything.

- (k) “New business” means a business established after the effective date of this chapter.
- (l) “Owner” means a person who owns; possessor; proprietor; a person having a legal right or title to real or personal property.
- (m) “Person” means both individuals and any cognizable legal entity.
- (n) “President” means the President of the Republic of Palau.
- (o) “Minister” means the Minister of Finance.
- (p) “Republic” means the Republic of Palau as its territory is defined in Section 1 of Article I of the Palau Constitution.

**Source**

RPPL 8-20 § 12, modified.

**§ 2403. Tax free zone created.**

There is hereby created a tax free zone (the “Capitol TFZ”) delimited as the area extending two (2) miles in all directions from the center point of the dome on the Olbiil Era Kelulau at the National Capitol Complex. The provisions of chapter 12, section 1298 shall not apply within the Capitol TFZ. However, all other provisions of Title 40 shall apply within the Capitol TFZ, and any person in the Capitol TFZ may register as a registered person.

**Source**

RPPL 8-20 § 3, modified. Amended by RPPL 11-11 § 12, modified.

**§ 2404. Incentives to persons owning existing business or establishing new businesses within the Capitol TFZ.**

(a) Notwithstanding any other provision of law, any person who owns a business within the boundaries of the Capitol TFZ on the effective date of this chapter (such a business hereafter referred to as a “Capitol TFZ Enterprise”), shall be, for a period of two (2) years from the commencement date or dates stated by the Certificate of Qualification issued to the Capitol TFZ Enterprise, exempt from the payment of the taxes specified below in subsection (b).

(b) Notwithstanding any other provision of law, any person who establishes a new

## NATIONAL CAPITOL COMPLEX TAX FREE ZONE 40 PNCA § 2405

business within the boundaries of the Capitol TFZ (such a business hereafter also referred to as a “Capitol TFZ Enterprise”) after the effective date of this Act, shall be, for a period of ten (10) years from the commencement date or dates stated by the Certificate of Qualification issued to the Capitol TFZ Enterprise, exempt from the payment of the taxes specified below.

- (1) All gross revenue and net income taxes imposed by the laws of the Republic on income or revenue derived from or generated by business conducted at the Capitol TFZ Enterprise;
- (2) All import taxes imposed by the laws of the Republic on building materials imported by the Capitol TFZ Enterprise, and exclusively used in the construction or renovation of the building or buildings from which the Capitol TFZ Enterprise is or will be conducting its business; and
- (3) All import taxes imposed by the laws of the Republic on capital equipment, fixtures, furnishings, and machinery, imported by the Capitol TFZ Enterprise, and exclusively used at the Capitol TFZ Enterprise; and
- (4) All export taxes imposed by the laws of the Republic on the exportation of any product manufactured at the Capitol TFZ Enterprise.

### Source

RPPL 8-20 § 4, modified. Subsection (b) amended by RPPL 9-20 § 5. Subsection (b) amended by RPPL 9-61 § 5.

### § 2405. Certificate of Qualification; application fee, criteria for issuance.

- (a) Any person desiring to take advantage of the tax exemptions set forth in this chapter may submit an application to the Minister for the issuance of a Certificate of Qualification, accompanied by an application fee in the amount of U.S. one hundred dollars (\$100).
- (b) The Minister shall promptly review the application and, if the application complies with the criteria set forth in section 2406 below, and the Minister determines that all information set forth in the application is true and accurate, the Minister shall promptly issue a Certificate of Qualification:
  - (1) stating the name of the Capitol TFZ Enterprise and the person owning it;

- (2) stating the location of the Capitol TFZ Enterprise;
- (3) stating that the owner of the Capitol TFZ Enterprise is entitled to the benefit of the tax exemptions provided in this Act; and
- (4) stating the respective date or dates on which the respective tax exemptions shall commence and expire (for new businesses the date the import tax exemption commences and expires may predate the date the gross revenue, net income, or export tax exemptions will commence and expire), provided that the commencement date or dates shall in no event predate the application.

(c) A person who owns more than one existing business or who establishes more than one new business with the Capitol TFZ shall obtain a separate Certificate of Qualification for each Capitol TFZ Enterprise.

(d) A Certificate of Qualification shall not be transferrable.

**Source**

RPPL 8-20 § 5, modified. Subsection (b)(4) amended by RPPL 9-61 § 6.

**§ 2406. Criteria for the issuance of a Certificate of Qualification.**

The criteria for the issuance of a Certificate of Qualification are as follows:

- (a) For an existing business, the applicant shall be a business in existence on the effective date of this chapter and possessing current business licences issued by the State of Melekeok and the Republic; and for new businesses, the applicant shall be a business that is established after the effective date of this chapter.
- (b) The applicant business's physical presence shall be located completely and only within the boundaries of the TFZ.
- (c) For an existing business, the applicant shall agree to remain open for a period of at least one (1) year after the date of issuance of the Certificate of Qualification; and for a new business, the applicant shall agree to open to the general public and after the date of opening, to remain open for business to the general public for a period of at least two (2) years.

**Source**

RPPL 8-20 § 6, modified. Subsection (c) amended by RPPL 9-61 § 7.

## NATIONAL CAPITOL COMPLEX TAX FREE ZONE 40 PNCA § 2408

### § 2407. Effect of a Certificate of Qualification.

Notwithstanding the tax exemptions granted by the provisions of this chapter, the owner of the Capitol TFZ Enterprise shall:

(a) with respect to gross revenue or net income taxes imposed by the laws of the Republic, keep and maintain the business records that all other taxpayers in the Republic are required by law and regulation to keep and maintain, and complete and file on a timely basis tax returns that all other taxpayers in the Republic are required by law and regulation to keep and maintain, provided that in lieu of remitting a payment covering the full amount of tax liability evidenced by the return, the owner of the Capitol TFZ Enterprise shall attach a copy of the Certificate of Qualification establishing his or her exemption from the payment of such tax liability; and

(b) with respect to import or export taxes imposed by the laws of the Republic, complete and present all entry and exit documents and forms that all other taxpayers in the Republic are required by law and regulation to complete and present, provided that in lieu of remitting a payment covering the full amount of the import or export tax liability that would otherwise be payable, the owner of the Capitol TFZ Enterprise shall attach a copy of the Certificate of Qualification establishing his or her exemption from the payment of such import and export taxes, and a sworn statement that the items being imported or exported are, appropriately as the case may be, to be used exclusively in the construction or renovation of the Capitol TFZ Enterprise, or are to be exclusively used at the Capitol TFZ Enterprise, or were manufactured at the Capitol TFZ Enterprise.

#### Source

RPPL 8-20 § 7, modified.

### § 2408. Liability for other taxes; compliance laws of the Republic.

Except for the tax exemptions granted by this chapter, the owner of the Capitol TFZ Enterprise shall be liable for all other taxes imposed by the laws of the Republic, and nothing herein shall be construed to allow a person to engage in business without complying with all applicable laws of the Republic and of the State of Melekeok, particularly but without limitation, to engage in a business prohibited by the laws of the Republic or of the State of Melekeok.

#### Source

RPPL 8-20 § 8, modified.

**§ 2409. Business licenses; delegation of authority to state of Melekeok.**

(a) In lieu of any other National Government business licenses required by the laws of the Republic, a Certificate of Qualification issued pursuant hereto shall serve as the Capitol TFZ Enterprise's National Government business license until the end of the calendar year during which the Certificate of Qualification was issued. Thereafter, in lieu of any other National Government business licenses required by the laws of the Republic, the Capitol TFZ Enterprise annually shall pay a fee of one hundred dollars (\$100) and obtain from the Minister, or his designee, a renewal of the Certificate of Qualification, provided that the dates the various tax exemptions commence and expire will remain the same as those stated in the original Certificate of Qualification.

(b) Each State in the Capitol TFZ is hereby authorized to enact a state law providing for a business license fee for a Capitol TFZ Enterprise of no more than five hundred dollars (\$500) per year.

**Source**

RPPL 8-20 § 9, modified.

**§ 2410. Regulations.**

Pursuant to the provisions of Chapter 1, Title 6 of the Palau National Code, the "Administrative Procedure Act," subject to the direction and approval of the President, and after consultation with the Melekeok State Government, the Minister may promulgate such rules and regulations as are consistent with, and as the Minister deems necessary to carry out the provisions of this chapter.

**Source**

RPPL 8-20 § 10, modified.

**§ 2411. Termination of Certificate of Qualification; recapture of taxes.**

(a) For a Certificate of Qualification issued to an existing business, in the event the Capitol TFZ Enterprise does not remain open for a period of at least one (1) year after the date of issuance of the Certificate of Qualification; and for a Certificate of Qualification issued to a new business, in the event the Capitol TFZ Enterprise does not open to the general public and after the date of opening, remain open for business to the general public for a period of at least two (2) years; or

(b) If the owner of the Capitol TFZ Enterprise improperly utilizes the import tax



## NATIONAL CAPITOL COMPLEX TAX FREE ZONE 40 PNCA § 2411

exemptions extended by this Act in any manner, including without limitation by:

(1) using import tax free building materials for any other purpose than in the construction or renovation of the building or buildings from which the Capitol TFZ Enterprise is conducting its business; or by

(2) using import tax free capital equipment, fixtures, furnishings, and machinery, at any place other than the Capitol TFZ Enterprise, in any such event, the Certificate of Qualification for the Capitol TFZ Enterprise shall automatically be deemed void *ab initio* and the owner of the Capitol TFZ Enterprise shall be liable for and shall reimburse the Republic for any gross revenue, net income, import or export taxes that he or she would otherwise have been required to pay were it not for the tax exemptions extended by this chapter.

### Source

RPPL 8-20 § 11, modified. Subsection (a) amended by RPPL 9-61 § 8.

**Chapter 25  
Senior Citizen Discount  
[Repealed]**

§§ 2501 - 2502 [Repealed]

**Source**

RPPL 8-49 §§ 2 & 4, modified. Repealed in its entirety by RPPL 9-55 § 10.

**Chapter 26  
Excise and Carbon Taxes**

**Subchapter I  
Excise Tax**

**Part A  
General Provisions**

§ 2601. Short title.  
§ 2602. Definitions.

**§ 2601. Short title.**

This subchapter shall be known and may be cited as the “Excise Tax Act”.

**Source**  
RPPL 11-11 § 16.

**Notes**  
RPPL 11-12 § 28 amends section 2607(a) of Title 40 which was repealed in its entirety by RPPL 11-11 § 16 and no longer exist. Former Chapter 26 entitled “Tobacco Excise Tax” is repealed in its entirety and replaced by RPPL 11-11 § 16.

Part A thru Part F of subchapter I replaced Part I thru VI to conform with the standard code format.

**§ 2602. Definitions.**

Unless the context requires otherwise, for the purposes of this subchapter:

- (a) “Customs legislation” means chapter 13 of Division 2 of Title 40, entitled “Import Tax” and any subsidiary legislation that amends the provisions of that chapter, successor legislation to that chapter, or other subsidiary legislation providing for Customs control of imported or exported goods and the imposition of a tax or duty on such goods.
- (b) “Excisable goods” means the goods specified in Column 1 of the table provided in section 2614(c), other than exempt goods.
- (c) “Excisable value”, in relation to excisable goods, has the meaning set forth in section 2615.

- (d) “Excise tax” means excise tax imposed under this subchapter.
- (e) “Exempt goods” means goods exempt from excise tax under section 2613.
- (f) “Importer”, in relation to an import of goods, includes the person who owns the goods, or any other person for the time being possessed of, or beneficially interested in, the goods, or permitted to import the goods under the Customs legislation.
- (g) “Licensed premises” means the premises of a registered manufacturer licensed under section 2624.
- (h) “Manufacture”, in relation to excisable goods, includes:
- (1) the production of excisable goods;
  - (2) any intermediate or uncompleted process in the production of excisable goods;
  - (3) filtering, diluting, or blending excisable goods with other goods;
  - (4) putting excisable goods for the first time in a container in which the goods might be presented or from which they might be dispensed; or
  - (5) labeling or marking, for the first time, of a container filled with excisable goods.
- (i) “Registered manufacturer” means a person who has been issued with a Certificate of Registration under section 2622 that is currently in force.
- (j) “Tobacco products” includes any products consisting of or containing the processed leaves of plants from the genus *Nicotiana* or species *tabacum* used for smoking, chewing or as snuff, and electronic cigarettes, including all products which contain tobacco in any form in an amount that is more than an incidental ingredient or component and that is intended for human consumption and includes all parts and materials, such as filters, rods and similar matter, and equipment used for the consumption of electronic cigarettes.

**Source**

RPPL 11-11 § 16, modified.

**Notes**

Subsections are re-lettered and paragraphs renumbered to conform with the standard format used in the Code.

**Part B  
Imposition of Excise Tax**

- § 2611. Imposition of excise tax on the removal of goods by registered manufacturer.
- § 2612. Imposition of excise tax on imports of excisable goods.
- § 2613. Exempt goods.
- § 2614. Excisable goods and rates.
- § 2615. Excisable value.
- § 2616. Quantity of excisable goods.
- § 2617. Deemed removal of excisable goods.
- § 2618. Relief for raw materials.
- § 2619. Relief for damaged or destroyed excisable goods.

**§ 2611. Imposition of excise tax on the removal of goods by registered manufacturer.**

- (a) Every registered manufacturer shall be assessed and levied, and must pay, excise tax at the rate specified in the Column 1 of the Table in section 2614(c) on excisable goods removed from licensed premises by a registered manufacturer.
- (b) Excise tax under subsection (a) is payable at the time, and in the manner specified in section 2643.

**Source**  
RPPL 11-11 § 16, modified.

**§ 2612. Imposition of excise tax on imports of excisable goods.**

- (a) Excise tax is imposed at the rate specified in Column 2 of the Table in section 2614(c) on excisable goods imported into the Republic.
- (b) Excise tax under subsection (a) is payable by the importer at the time of import and in the manner specified in section 2643.
- (c) The time of import of excisable goods is:
  - (1) if the goods entered into the Republic under the Customs legislation, on the date on which they were so entered; or

(2) in any other case, on the date that the goods are brought into the Republic.

(d) Excisable goods that require an excise stamp can be imported only by a person licensed by the Director to import such goods.

**Source**

RPPL 11-11 § 16, modified.

**§ 2613. Exempt goods.**

The following goods are exempt from excise tax:

(a) for persons arriving in the Republic by common carrier:

(1) one only of the following: one opened pack of cigarettes; one cigar not exceeding fifteen (15) grams; or up to fifteen (15) grams of loose smoking tobacco, chewing tobacco, or pipe tobacco, in an opened package;

(2) a quantity of alcohol products, as selected by the person, that is in aggregate not more than two (2) liters;

(b) bona fide stores of a ship or aircraft, being goods for the use of passengers and crew of the ship or aircraft while on board and while the ship or aircraft is in international traffic in such quantities as approved by the Director;

(c) goods carried across the Republic in transit.

**Source**

RPPL 11-11 § 16, modified.

**Notes**

Subsections are re-lettered and paragraphs renumbered to conform with the standard format used in the Code.

**§ 2614. Excisable goods and rates.**

(a) Excisable goods are specified in Column 1 in the table in subsection (c). Specified excisable Goods shall be further defined by regulation.

(b) Subject to subsection (d), the rates of excise tax are specified in the table in subsection (c).

**EXCISE AND CARBON TAXES****40 PNCA § 2614**

(c)

Excisable Goods	Excise Tax Rate
Carbonated soft drinks	Ten cents (\$0.10) per twelve (12) fluid ounces or fractional part thereof.
Beer	Three cents (\$0.03) per fluid ounce.
Liquor	Thirty cents (\$0.30) per fluid ounce.
Grape or other fruit-based wine	Twenty cents (\$0.20) per fluid ounce or metric equivalent rounded to the next ounce.
Wine coolers or cooking wines with a recognized alcohol content	Five cents (\$0.05) per fluid ounce or metric equivalent rounded to the next ounce.
All other alcoholic beverage products, including liquors, sake, and alcohol products without grape or fruit-base	Thirty cents (\$0.30) per fluid ounce or metric equivalent rounded to the next ounce.
Vehicles and vehicle chassis	Two hundred fifty dollars (\$250); A partial vehicle that constitutes more than twenty five percent (25%) of a vehicle's composition, as determined by the Division of Customs, is subject to this rate of tax.
Bottled water	25% of excisable value
Cigarettes	Five dollars (\$5.00) per 0.017 kilograms, and packs of cigarettes weighing less than 0.017 kilograms are taxed at the rate of five dollars (\$5.00) per pack.
Other tobacco products	Five dollars (\$5.00) per 0.017 kilograms.

(d) The rate of excise tax on an export of excisable goods is zero percent (0%).

(e) Subject to subsection (f), excisable goods are treated as exported if the goods are delivered to, or made available at, an address outside the Republic. For this purpose, the delivery of the goods to the owner, charterer, or operator of a ship or aircraft operating in international traffic for the purposes of carrying the goods outside the Republic is, in the absence of proof to the contrary, sufficient evidence that the goods have been exported.

(f) Excisable goods are not treated as exported if the goods have been, or will be, re-imported into the Republic.

**Source**

RPPL 11-11 § 16, modified.

**§ 2615. Excisable value.**

(a) This section applies where section 2614(c) specifies a rate of excise tax payable by reference to the excisable value of excisable goods.

(b) The excisable value of excisable goods manufactured in the Republic is the ex-factory selling price of the goods, but not including:

- (1) the PGST payable on the supply of the goods;
- (2) the cost of excise stamps, if any; and
- (3) the cost of returnable containers, if any.

(c) The excisable value of excisable goods imported into the Republic is the total of the following amounts:

- (1) the value of the goods for the purposes of import tax as determined under the Customs legislation, whether or not import tax is payable on the goods;
- (2) the amount of import tax imposed on the goods under the Customs legislation;
- (3) the amount of any other tax (other than excise tax or PGST), duty, fee, or other charge payable upon the entry of the goods into the Republic.

(d) The ex-factory selling price of excisable goods is:



- (1) if the excisable goods are sold by the manufacturer to an associate, the fair market value of the goods at the time of removal from the manufacturer's factory; or
- (2) in any other case, the price payable by the purchaser.

**Source**

RPPL 11-11 § 16, modified.

**§ 2616. Quantity of excisable goods.**

- (a) This section applies where section 2614(c) specifies a rate of excise tax payable by reference to a quantity measured by volume or weight.
- (b) Subject to subsection (c), if goods are imported or removed from licensed premises in a container intended for sale with, or of a kind usually sold with, the goods in a sale by retail and the container is marked, labelled, or commonly sold as containing, or commonly reputed to contain, a specified quantity of the goods, the container is deemed to contain not less than the specified quantity for the purpose of determining the excise tax payable in respect of the goods.
- (c) If the package referred to in subsection (b) contains more than the specified quantity, excise tax is calculated based on the actual quantity.
- (d) Subsection (e) applies if the following conditions are satisfied:
  - (1) excisable goods are imported into the Republic, or removed from licensed premises, in a package intended for sale with, or of a kind usually sold with, the goods in a sale by retail;
  - (2) the package is not marked or labelled with a net weight, and is not commonly sold as containing, or is not commonly reputed to contain, a specific quantity or weight; and
  - (3) the owner of the goods is unable to satisfy the Director of the correct net weight of the package.
- (e) Where the conditions in subsection (d) are satisfied, the excisable goods are subject to excise tax according to the gross weight of the package and its contents.

**Source**

RPPL 11-11 § 16, modified.

**§ 2617. Deemed removal of excisable goods.**

(a) A registered manufacturer who cannot account, to the satisfaction of the Director, for any quantity of excisable goods manufactured or warehoused by the manufacturer is deemed to have removed those goods from licensed premises in the month in which the discrepancy arose.

(b) A registered manufacturer must notify the Director of any discrepancies between the manufacturer's actual and recorded inventory as soon as the manufacturer becomes aware of the discrepancy.

**Source**

RPPL 11-11 § 16.

**§ 2618. Relief for raw materials.**

If excise tax has been paid in respect of excisable goods imported into, or manufactured in, the Republic by a registered manufacturer and those goods have been used as raw materials in the manufacture of other excisable goods (hereinafter referred to as "finished goods"), the excise tax paid on the raw materials is offset against the excise tax payable on the finished goods.

**Source**

RPPL 11-11 § 16.

**§ 2619. Relief for damaged or destroyed excisable goods.**

No excise tax is payable by a registered manufacturer in respect of excisable goods:

- (a) destroyed by fire or other natural cause prior to removal from licensed premises; or
- (b) that have deteriorated or been damaged in storage at the manufacturer's licensed premises and are securely disposed of under the supervision of an authorized tax officer.

**Source**

RPPL 11-11 § 16, modified.

**Notes**

Subsections are re-lettered to comply with the code format.

**Part C**  
**Registered Manufacturers**

§ 2621. Prohibition on manufacture of excisable goods.

§ 2622. Registration.

§ 2623. Cancellation of registration.

§ 2624. Approval of licensed premises.

**§ 2621. Prohibition on manufacture of excisable goods.**

(a) A person must not manufacture excisable goods in the Republic unless:

(1) the person is registered under this subchapter for the purposes of manufacturing those goods; and

(2) the excisable goods are manufactured in licensed premises.

(b) A person who manufactures excisable goods in contravention of subsection (a) is liable for the excise duty payable in respect of the excisable goods at the rate specified in section 2614(c).

(c) The excise duty payable by a person under subsection (b):

(1) is payable on demand made by the Director; and

(2) is in addition to any sanction imposed on the person under this Division for breach of subsection (a).

**Source**

RPPL 11-11 § 16, modified.

**§ 2622. Registration.**

(a) A person wishing to manufacture excisable goods must apply to the Director for registration as a manufacturer of excisable goods.

(b) An application under subsection (a) must be:

- (1) in the approved form;
  - (2) accompanied by the prescribed fee; and
  - (3) lodged in the prescribed manner.
- (c) The Director may register an applicant under subsection (a) if:
- (1) the Director is satisfied that the applicant will manufacture excisable goods in compliance with the obligations imposed under this subchapter on registered manufacturers; and
  - (2) the applicant has provided security as determined by the Director.
- (d) The director may impose such terms, conditions, or restrictions as the Director considers appropriate in relation to the registration of a person as a registered manufacturer for the purposes of this subchapter.
- (e) The Director must issue a registered manufacturer with a Certificate of Registration in the approved form.
- (f) Registration takes effect from the date set out in the manufacturer's Certificate of Registration.
- (g) A registered manufacturer must notify the Director, in writing, of:
- (1) any change in the name, address, place of business, constitution, or nature of the principal activity or activities carried on by the manufacturer, including a significant change in the nature or quantity of excisable goods manufactured; and
  - (2) any period in which the manufacturer closes operations on a temporary basis.
- (h) A notification under subsection (g) must be given to the Director no later than seven (7) days after the event requiring notification occurs.

**Source**

RPPL 11-11 § 16, modified.

**§ 2623. Cancellation of registration.**

(a) A registered manufacturer who ceases to manufacture excisable goods must, within seven (7) days of the date of such cessation, notify the Director, in writing, of that fact, stating:

- (1) the date on which the manufacturer ceased to manufacture excisable goods;
- (2) the date on which the manufacturer expects that no excisable goods will remain in the manufacturer's licensed premises; and
- (3) whether or not the manufacturer intends to recommence manufacturing excisable goods within twelve (12) months from the date provided under paragraph (2).

(b) If the Director receives a notification under subsection (a), the Director must, by notice in writing, cancel the registration of the manufacturer with effect from the first day on which there are no longer excisable goods in the manufacturer's licensed premises, unless the Director has reasonable grounds to believe that the manufacturer will recommence manufacturing excisable goods at any time within twelve (12) months from the date provided under subsection (a)(2).

(c) Any obligation or liability under this subchapter of a registered manufacturer in respect of anything done or omitted to be done by the manufacturer while the manufacturer is a registered manufacturer, including the obligation to pay excise tax and to file excise tax returns, is not affected by cancellation of the manufacturer's registration.

(d) A registered manufacturer who sells a business of manufacturing excisable goods as a going concern must notify the Director, in writing, of that fact at least seven (7) days before the earliest of the date on which:

- (1) the sale is completed;
- (2) the purchaser acquires any legal interest in the assets to be acquired; or
- (3) the assets of the going concern are transferred.

**Source**

RPPL 11-11 § 16, modified.

**§ 2624. Approval of licensed premises.**

- (a) A registered manufacturer must apply to the Director, in the prescribed form and manner, for the licensing of premises for the manufacture and sale of excisable goods.
- (b) The Director must approve a registered manufacturer's premises as licensed premises if the premises meet the standards set out in the regulations.
- (c) A registered manufacturer may manufacture and sell excisable goods only from licensed premises.

**Source**  
RPPL 11-11 § 16.

**Part D**  
**Excise Stamps**

§ 2631. Use of excise stamps.

**§ 2631. Use of excise stamps.**

- (a) Manufactured and imported alcoholic spirits and tobacco products must be marked by the importer or registered manufacturer with an excise stamp as prescribed prior to their removal from licensed premises as evidence that excise tax has been paid on the goods.
- (b) Imported alcoholic spirits and tobacco products must be marked by the importer with an excise stamp as prescribed within seven (7) days of entry into the Republic.
- (c) The Director must seize any alcoholic spirits or tobacco products that are supplied without an excise stamp as prescribed.
- (d) No person is permitted to manufacture or print excise stamps unless licensed to do so by the Director in accordance with the regulations.

**Source**  
RPPL 11-11 § 16.

**Part E**  
**Excise Tax Procedure**

- § 2641. Records.
- § 2642. Excise tax returns.
- § 2643. Due date for payment of excise tax.
- § 2644. Offenses.

**§ 2641. Records.**

An importer or registered manufacturer must keep such accounts, documents, and records as enable the calculation of the excise tax payable by the importer or manufacturer.

**Source**  
RPPL 11-11 § 16.

**§ 2642. Excise tax returns.**

A registered manufacturer must file an excise tax return, in the approved form and prescribed manner, for each calendar month within fifteen (15) days after the end of the month, whether or not any excise tax is due for that month.

**Source**  
RPPL 11-11 § 16.

**§ 2643. Due date for payment of excise tax.**

- (a) The excise tax payable by a registered manufacturer for a calendar month is due for payment by the due date for filing the manufacturer's excise tax return for the month.
- (b) The excise duty payable by an importer in respect of the importation of excisable goods into the Republic must be paid to the Director at the time of importation.
- (c) For the purposes of collecting and enforcing the payment of excise tax on the import of goods into the Republic, the Customs legislation applies as if the excise tax were import tax.

**Source**  
RRPL 11-11 § 16.

§ 2644. Offenses.

(a) A person who contravenes section 2621 is guilty of an offense and upon conviction is subject to a fine not exceeding ten thousand dollars (\$10,000) or to a term of imprisonment not exceeding five (5) years, or both.

(b) A person who, without authorization, enters licensed premises is guilty of an offense and upon conviction is subject to a fine not exceeding five thousand dollars (\$5,000) or to a term of imprisonment not exceeding five (5) years, or both.

(c) A person is guilty of an offense and upon conviction is subject to a fine not exceeding five thousand dollars (\$5,000) or to a term of imprisonment not exceeding two (2) years, or both if the person is involved in:

(1) the unauthorized removal of excisable goods from licensed premises; or

(2) the alteration of, or interference with, excisable goods in licensed premises.

(d) A person is guilty of an offense and upon conviction is subject to a fine not exceeding ten thousand dollars (\$10,000) or to a term of imprisonment not exceeding three (3) years, or both, if the person:

(1) marks alcoholic spirits or tobacco products with an excise stamp knowing that the excise tax in respect of alcoholic spirits or tobacco products has not been paid;

(2) fraudulently appropriates excise stamps belonging to a registered manufacturer; or

(3) manufactures excise stamps when not being the lawful holder of a license to manufacture such stamps.

**Source**

RPPL 11-11 § 16, modified.



**Part F**  
**Miscellaneous Provisions**

- § 2651. Tax avoidance schemes.
- § 2652. Currency translation.
- § 2653. Interim change in excise tax rate.
- § 2654. Regulations.
- § 2655. Allocation of tax revenues for healthcare-related and other costs.

**§ 2651. Tax avoidance schemes.**

- (a) Subsections (b) and (c) apply if the Director is satisfied that:
  - (1) a scheme has been entered into or carried out;
  - (2) a person has obtained a tax benefit in connection with the scheme; and
  - (3) having regard to the substance of the scheme, it would be concluded that a person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person referred to in paragraph (2) to obtain a tax benefit.
- (b) If the Director is satisfied of the matters specified in subsection (a), then the Director may determine the excise tax liability of the person who obtained the tax benefit as if the scheme had not been entered into or carried out.
- (c) If the Director makes a determination under subsection (b), the Director must serve a notice or notices of assessment to give effect to the determination on the person or persons whose excise tax liability is affected by the determination.
- (d) A determination under subsection (b) must be made within six (6) years from the last day of the month to which the determination relates.
- (e) The following constitute a “tax benefit” for the purposes of this section:
  - (1) a reduction in the liability of a person to pay excise tax;
  - (2) an entitlement to a refund of excise tax;

- (3) a postponement of a liability for the payment of excise tax; or
- (4) any other advantage arising because of a delay in the payment of excise tax.

**Source**  
RPPL 11-11 § 16, modified.

**§ 2652. Currency translation.**

- (a) An amount taken into account under this subchapter must be expressed in United States dollars.
- (b) If an amount is expressed in a currency other than United States dollars, then:
  - (1) for an import of goods, the amount is converted into United States dollars at the exchange rate applicable under the Customs legislation for the purposes of calculating the import tax that is due on the import; or
  - (2) in any other case, the amount is converted to United States dollars at the United States Federal Reserve mid-exchange rate applicable between the foreign currency and United States dollars on the date the amount is taken into account for the purposes of this subchapter.

**Source**  
RPPL 11-11 § 16.

**§ 2653. Interim change in excise tax rate.**

- (a) The Minister may increase or decrease the rate of excise tax under section 2614(c) by not more than ten percent (10%).
- (b) An increase or decrease in the rate of excise tax under subsection (a) shall lapse six (6) months after the date of application unless, within that time, the Olbiil Era Kelulau passes legislation to give effect to the change.
- (c) Where an increase or decrease in excise tax rate lapses under subsection (b), the increased or decreased rate applies for the period of its application before lapsing.

**Source**  
RPPL 11-11 § 16, modified.

**§ 2654. Regulations.**

The Minister of Finance may promulgate regulations that are necessary to give effect to this subchapter, particularly with respect to the registration of manufacturers, licensing of premises, and the preparation, issuing, and use of excise stamps.

**Source**

RPPL 11-11 § 16.

**§ 2655. Allocation of tax revenues for healthcare-related and other costs.**

(a) Ten percent (10%) of the annual revenues derived from the tax imposed on alcoholic beverages under this subchapter shall be allocated to pay healthcare coverage subscription costs for citizens who are sixty (60) years of age or older and not working, and for citizens who are disabled and not working, in accordance with 41 PNC § 952(a). The Minister of Finance shall disburse to the Healthcare Fund the funds allocated under this subsection no later than the fifteenth day of the month following the end of each quarter of the fiscal year.

(b) Ten percent (10%) of the annual revenues derived from the tax imposed on alcoholic beverages under this subchapter shall be allocated to the Non-Communicable Diseases Fund established in section 1308 of this Title in an amount not to exceed five hundred thousand dollars (\$500,000), and with any amount collected above five hundred thousand dollars (\$500,000) to be deposited into the National Treasury to be earmarked for appropriation to the Ministry of Health and Human Services for purposes related to hospital operations, programs, and activities, including medical supplies and drugs and other Ministry of Health and Human Services operations.

(c) One percent (1%) of the annual revenues derived from the tax imposed on alcoholic beverages under this subchapter shall be allocated to the Palau Livestock Fund established by chapter 5 of Title 9 for a period of six (6) years beginning on the date of the establishment of the Palau Livestock Fund.

(d) Ten percent (10%) of the annual revenues derived from the tax imposed on cigarettes and other tobacco products under this subchapter shall be allocated to pay healthcare coverage subscription costs for citizens who are sixty (60) years of age or older and not working, and for citizens who are disabled and not working, in accordance with 41 PNC § 952(a) and to the Ministry of Health and Human Services, in accordance with paragraphs (1) and (2).

(1) The Minister of Finance shall disburse the first six hundred and fifty thousand dollars (\$650,000) collected pursuant to subsection (d) to the Healthcare Fund for healthcare coverage subscription costs for citizens who are sixty (60) years of age or older and not working, and for citizens who are disabled and not working, in accordance with 41 PNC § 952(a) no later than the fifteenth day of the month following the end of each quarter of the fiscal year.

(2) Any amounts in excess of six hundred and fifty thousand dollars (\$650,000) collected pursuant to subsection (d) shall be deposited into the National Treasury to be earmarked for appropriation to the Ministry of Health and Human Services for purposes related to hospital operations, programs, and activities, including medical supplies and drugs and other Ministry of Health and Human Services operations.

(e) Ten percent (10%) of the annual revenues derived from the tax imposed on cigarettes and other tobacco products under this chapter shall be allocated to the Non-Communicable Diseases Fund established in section 1308 of this Title in an amount not to exceed five hundred thousand dollars (\$500,000), and with any amount collected above five hundred thousand dollars (\$500,000) to be deposited into the National Treasury to be earmarked for appropriation to the Ministry of Health and Human Services for purposes related to hospital operations, programs, and activities, including medical supplies and drugs and other Ministry of Health and Human Services operations.

(f) One percent (1%) of the annual revenues derived from the tax imposed on cigarettes and other tobacco products under this subchapter shall be allocated to the Ministry of Agriculture, Fisheries, and the Environment for the purpose of funding the incentive programs, including administration costs, established in sections 401 and 402 of Title 9.

(g) Ten percent (10%) of the annual revenues derived from the tax imposed on alcoholic beverages, cigarettes, and other tobacco products under this subchapter shall be allocated to a separate revolving fund within the National Treasury known as the "Social Assistance Fund." Money from the Social Assistance Fund shall be used to cover the costs of the social assistance payments established under sections 1106 and 1107 of this Title and the child raising subsidy established under section 8506 of Title 34.

**Source**

RPPL 11-11 § 16, modified.

**Subchapter II**  
**Carbon Tax**

§ 2661. Imposition of carbon tax.

§ 2662. Interim change in carbon tax rate.

**§ 2661. Imposition of carbon tax.**

(a) Every person who imports into the Republic liquid fuel or liquid petroleum-based products, except for butane and propane, regardless of the purpose of the import, shall be assessed and levied, and shall pay, carbon tax in respect of the import at the rate of two cents (\$0.02) per gallon or metric equivalent, or fraction thereof rounded to the nearest quart.

(b) The Minister shall promulgate regulations for the implementation of the carbon tax.

(c) Fifty percent (50%) of the annual revenue derived from the carbon tax imposed under this section shall be allocated to the Palau Public Utilities Corporation (PPUC) for PPUC to subsidize the electricity rates for Palauan households who consume 0-150 kilowatt hours of electricity per month. The remaining fifty percent (50%) of the annual revenue derived from the carbon tax imposed under this section shall be allocated to support projects designed to reduce the Republic's carbon emissions.

**Source**

RPPL 11-11 § 16.

**§ 2662. Interim change in carbon tax rate.**

(a) The Minister may increase or decrease the rate of carbon tax under section 2661(a); provided, however, that in no case shall the rate of carbon tax be more than ten cents (\$0.10) per gallon or metric equivalent, or fraction thereof rounded to the nearest quart.

(b) An increase or decrease in the rate of carbon tax under subsection (a) shall lapse six (6) months after the date of application unless, within that time, the Olbiil Era Kelulau passes legislation to give effect to the change.

(c) Where an increase or decrease in carbon tax rate lapses under subsection (b), the increased or decreased rate applies for the period of its application before lapsing.

**40 PNCA § 2662**

**REVENUE AND TAXATION**

**Source**

RPPL 11-11 § 16, modified.

**PRISTINE PARADISE ENVIRONMENTAL FEE 40 PNCA § 2702**

**Chapter 27  
Pristine Paradise Environmental Fee**

- § 2701. Purpose.
- § 2702. Definitions.
- § 2703. Imposition of Pristine Paradise Environmental Fee.
- § 2704. Refunds of Pristine Paradise Environmental Fee.
- § 2705. Regulations.
- § 2706. Allocation of Pristine Paradise Environmental Fee.
- § 2707. Implementation.
- § 2708. Transition.

**§ 2701. Purpose.**

The purpose of this chapter is to establish the Pristine Paradise Environmental Fee.

**Source**  
RPPL 10-2 § 4.

**Notes**  
Former chapter 27 entitled “Environmental Impact Fee” was repealed by RPPL 10-2 § 2.

**§ 2702. Definitions.**

In this chapter:

- (a) “International travel” means travel by air or sea into the Republic of Palau.
- (b) “Passenger” means a person who undertakes international travel into the Republic of Palau for any purpose other than as a transit passenger.
- (c) “Passenger ship” means a seagoing vessel carrying more than twelve (12) passengers for hire.
- (d) “Transit passenger” means a passenger who, except by means of passenger ship, has arrived in the Republic of Palau and will depart the Republic of Palau:
  - (1) Within twenty four (24) hours of that arrival; or

(2) After twenty four (24) hours due to circumstances beyond the passenger's control.

**Source**

RPPL 10-2 § 4, modified. Amended by RPPL 10-12 § 34. Amended by RPPL 10-35 § 10, modified.

**§ 2703. Imposition of Pristine Paradise Environmental Fee.**

Every passenger shall pay a Pristine Paradise Environmental Fee of one hundred dollars (\$100) for each international arrival into the Republic of Palau.

**Source**

RPPL 10-2 § 4, modified. Amended by RPPL 10-12 § 34.

**§ 2704. Refunds of Pristine Paradise Environmental Fee.**

(a) The following categories of people shall be refunded the Pristine Paradise Environmental Fee:

- (1) Palauan citizens;
- (2) Spouses of Palauan citizens;
- (3) Pilots and other crew members of any aircraft lawfully operating as a common carrier;
- (4) Diplomats carrying a diplomatic passport; and
- (5) Transit passengers.

(b) Individuals traveling on a ticket purchased with funds originating from the National Treasury shall not be refunded the Pristine Paradise Environmental Fee.

(c) The Minister of Finance shall have the authority to designate additional categories of people who shall be refunded the Pristine Paradise Environmental Fee through regulation.

**Source**

RPPL 10-2 § 4. Amended by RPPL 10-12 § 34. Amended by RPPL 10-16 § 5.



**PRISTINE PARADISE ENVIRONMENTAL FEE 40 PNCA § 2706**

**§ 2705. Regulations.**

The Minister of Finance shall promulgate regulations which include:

- (a) Providing for the administration of this chapter; and
- (b) Amending the amount of the Pristine Paradise Environmental Fee to be paid by a passenger.

**Source**  
RPPL 10-2 § 4

**§ 2706. Allocation of Pristine Paradise Environmental Fee.**

Of the Pristine Paradise Environmental Fee paid by each passenger:

- (a) Five dollars (\$5.00) shall be allocated to the Fisheries Protection Trust Fund pursuant to 27 PNC § 192;
- (b) Five dollars (\$5.00) shall be allocated to the Palau International Coral Reef Center for its administration of the Palau National Marine Sanctuary. All monies allocated to the Center pursuant to this subsection shall be maintained by the Center in a separate account distinct from accounts that fund the Center's other operations;
- (c) Twelve dollars and fifty cents (\$12.50) shall be divided among the states as follows: seventy percent (70%) of such funds shall be divided among the states in equal shares, and the remaining thirty percent (30%) shall be apportioned among the states according to population;
- (d) Twenty-five dollars (\$25.00) shall be deposited in the National Treasury, with fifty percent (50%) of these funds earmarked and appropriated to relevant agencies for purposes related to the security, operation, maintenance, and improvement of the Palau International Airport; and fifty percent (50%) earmarked and appropriated to the Civil Service Pension Plan. This second fifty percent (50%) of funds shall be transmitted by the Ministry of Finance to the Civil Service Pension Plan on or before the fifteenth (15<sup>th</sup>) day of each month following the end of a quarter;
- (e) Thirty dollars (\$30.00) shall be earmarked as a "Green Fee" pursuant to 24 PNC § 3413 and shall be allocated and appropriated in accordance with that provision as if fully

stated herein; and

(f) Twenty-two dollars and fifty cents (\$22.50) shall revert to the National Treasury.

**Source**

RPPL 10-2 § 4, modified. Subsection (c) amended by RPPL 10-25 § 10. Subsection (a) is amended, a new subsection (b) added and the rest of subsections re-lettered accordingly by RPPL 10-35 § 11.

**§ 2707. Implementation.**

The Pristine Paradise Environmental Fee will be implemented and begin being collected upon promulgation of all rules and regulations necessary for the collection of the Pristine Paradise Environmental Fee through its inclusion in the price of airline tickets, a mechanism which would collect the Pristine Paradise Environmental Fee upon visitors' entry into the Republic, or a mechanism that collects the Pristine Paradise Environmental Fee upon departure from visitors arriving into and departing from the Republic via charter flights. Such rules and regulations shall be promulgated by the Minister of Finance.

**Source**

RPPL 10-2 § 4. Amended by RPPL 10-42 § 36.

**§ 2708. Transition.**

The departure tax set forth under 40 PNC § 1403 shall cease to have effect and shall be repealed upon the assessment of the Pristine Paradise Environmental Fee except that any other allocation or appropriation of the departure tax set forth under 40 PNC § 1403 shall now be applied to § 2706(e).

**Source**

RPPL 10-2 § 4. Amended by RPPL 10-12 § 34.