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May 7, 1971

41929.4290

Miss Kathy Schave  
3883 Maywood Court  
Cincinnati, Ohio 45211

Dear Miss Schave:

The questions contained in your undated letter to me, received on April 30, 1971, are set forth below with answers:

1. What taxes must a territorial citizen and business within the territory pay to the Federal Government?

In answering this and the other questions we shall assume that you refer to American Samoa, Guam and Virgin Islands since these are the "territories or possessions" over which the Department exercises administrative supervision. Also, when you refer to a "territorial citizen," we shall assume you refer to an inhabitant or resident of a territory or possession who is subject to taxes. As you no doubt know, Virgin Islanders and Guamanians are United States citizens. American Samoans are nationals.

These taxes imposed under the Internal Revenue Code, in general, income taxes of the Federal Government, apply in the territories and possessions. Attached is a copy of section 7651 of title 26 of the United States Code (1964 Ed.) which sets forth the law on this point. However, pursuant to Organic Acts passed for both Guam and Virgin Islands, the proceeds of such taxes are returned to respective local treasuries. For other special provisions relating to the territories and possessions see attached copy of sections 761 through 934 of the U. S. Code, Title 26.

2. What taxes must a territorial citizen and business within the territory pay to the Territorial Government?

In American Samoa: Under the Samoan Income Tax Act of 1961, as amended, enacted by the Government of American Samoa, a territorial income tax, payable to the Government of American Samoa is imposed. In addition, excise taxes are imposed by local law.

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In Guam and Virgin Islands: See the enclosed booklets -- "Facts about Doing Business on Guam," and "Facts about Doing Business in the U. S. Virgin Islands."

3. Does the U. S. Congress control the taxing power in the territory or is the territory permitted to levy and collect taxes?

Congress has the power to control taxation. It has legislated in this field, as illustrated by certain provisions in the Internal Revenue Code as well as in Organic Acts for the Virgin Islands and Guam, and it has also passed legislation broad enough in scope to permit the territorial governments to levy and collect taxes pursuant to their own local laws.

4. What are the rights of citizens within the territory?

Since all of the territories and possessions are under the sovereignty of the United States, the Constitution of the United States, in general, extends to their people. Since the territories are not States, as the term is used in the Constitution, some provisions of the Constitution would not necessarily be applicable to a territory. Under Article IV, section 3, clause 2 of the Constitution, Congress has the power to regulate territories of the United States. In addition to rights under the Constitution applicable as a matter of course in the territories, Congress has spelled out in a bill of Rights in Organic Acts for Guam and Virgin Islands rights of their people. A copy of each, from the United States Code, is attached.

Since American Samoans are nationals they do not fall into the category of "citizens of the United States," as that term is used in the Constitution. To date, Congress has not enacted organic legislation for Samoa, as it has for Guam and Virgin Islands. Instead, provision has been made that

Until Congress shall provide for the government of such Islands, all civil, judicial, and military powers shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned.

(48 U.S.C. 1661(c), 1964 Ed.)

Under an Executive Order by the President, responsibility for administration of American Samoa is in the Secretary of the Interior. The Secretary has authorized, and the people of Samoa have accepted

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a "Revised Constitution of American Samoa" which includes a Bill of Rights. A copy of the Bill of Rights from that Revised Constitution is enclosed.

We hope that the information we have furnished will assist you in the preparation of your thesis.

Sincerely yours,

Elizabeth F. Farrington  
Director

Enclosures

cc's: Territories files  
Territories Reading File  
Land Management  
Assoc. Sol. DTWC  
Mr. Scott  
Mr. Goleman

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