

August 28, 1974

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MEMORANDUM TO MIKE HELFER

SUBJECT: Marianas

Attached is a draft of the title of the status agreement dealing with the Marianas Territorial income tax. The draft relies heavily on comparable provisions of the Guam legislation and, with respect to the power of Congress to annul certain amendments to the Territorial income tax laws, on the old Puerto Rican legislation. Copies of these relevant models are attached for reference purposes.


F.D.L.

Attachments

01-10586

Title VI

Territorial Income Tax

Section 602(a). The income-tax laws in force in the United States of America and those which may hereafter be enacted shall be likewise in force in the Northern Mariana Islands as a separate Territorial Income Tax, payable to the government of the Northern Marianas Islands. Such tax is designated the "Northern Mariana Islands Territorial Income Tax."

(b) The Legislature of the Northern Mariana Islands shall have the power by ^{law} ~~due enactment~~ to amend, alter, modify or repeal the Northern Mariana Islands Territorial In-come tax, ^{Notwithstanding Sections 103 and 104 of the Agreement,} provided, however, that all such enactments shall, ~~as provided in section (c) of this title, be reported to the~~ Congress of the United States ~~which~~ ^{by law} [until January 1, 1980, ^{*}] reserves the power and authority ^{to annul} ~~the same~~.

(c) The Executive Branch of the Northern Mariana Islands Government shall transmit to the Congress of the United States copies of any amendment, alteration, modification or repeal of the Northern Marianas Territorial Income Tax within thirty days after such enactment which amendment, alteration,

*/ [Use date five years from effective date of Territorial income tax.]

any such amendment, alteration, modification or repeal.

modification or repeal shall become effective by its terms if not annulled by the Congress of the United States ^{by law} within sixty days after such report is received by the Congress of the United States.

(d) The administration and enforcement of the Northern Mariana Islands Territorial income tax shall be performed by or under the supervision of the Chief Executive Officer. [Any function needful to the administration and enforcement of the income-tax laws in force in the Northern Mariana Islands pursuant to subsection (a) of this section shall be performed by any officer or employee of the government of the Northern Mariana Islands duly authorized by the Chief Executive Officer (either directly or indirectly by one or more redelegations of authority) to perform such function.]

(e) (1) The income-tax laws in force in the Northern Mariana Islands pursuant to subsection (a) of this section include but are not limited to the following provisions of the Internal Revenue Code of 1954, where not manifestly inapplicable or incompatible with the intent of this section: Subtitle A (not including chapter 2 and section 931); chapters 24 and 25 of subtitle C, with reference to the collection of income tax at source on wages; and all provisions of subtitle F which apply to the income tax, including provisions as to crimes, other offenses, and forfeitures contained in chapter 75.

(2) The Chief Executive Officer or his delegate shall have the same administrative and enforcement powers and

OK - how about gift + estate taxes

remedies with regard to the Northern Mariana Islands Territorial income tax as the Secretary of the Treasury, and other United States officials of the Executive Branch, have with respect to the United States income tax. [Needful rules and regulations not inconsistent with the regulations prescribed under section 7654(e) of the Internal Revenue Code of 1954 for enforcement of the Northern Mariana Islands Territorial income tax shall be prescribed by the Chief Executive Officer. The Chief Executive Officer or his delegate shall have authority to issue, from time to time, in whole or in part, the text of the income-tax laws in force in the Northern Mariana Islands pursuant to subsection (a) of this section.]

(f) In applying the Northern Mariana Islands Territorial income tax pursuant to subsection (a) of this section, except where it is manifestly otherwise required, the applicable provisions of the Internal Revenue Code of 1954 shall be read so as to substitute "the Northern Mariana Islands" for "United States," "Chief Executive Officer or his delegate" for "Commissioner of Internal Revenue" and "Collector of Internal Revenue," "District Court of the Northern Mariana Islands" for "district court" and with other changes in nomenclature and other language, including the omission of inapplicable language, where necessary to effect the intent of this section.

(g) [Any act or failure to act with respect to the Northern Mariana Islands Territorial income tax which constitutes a criminal offense under chapter 75 of subtitle F of the Internal Revenue Code of 1954, as included in the income-tax laws in force in the Northern Mariana Islands pursuant to subsection (a) of this section, shall be an offense against the government of the Northern Mariana Islands and may be prosecuted in the name of the government of the Northern Mariana Islands by the appropriate officers thereof.]

(h) [The government of the Northern Mariana Islands shall have a lien with respect to the Northern Mariana Islands Territorial income tax in the same manner and with the same effect, and subject to the same conditions, as the United States has a lien with respect to the United States income tax. Such lien in respect of the Northern Mariana Islands Territorial income tax shall be enforceable in the name of and by the government of the Northern Mariana Islands. Where filing of a notice of lien is prescribed by the income-tax laws in force in the Northern Mariana Islands pursuant to subsection (a) of this section, such notice shall be filed in the Office of the Clerk of the District Court of the Northern Mariana Islands.]

Why?
(i) [(1) Notwithstanding any other provision of law to the contrary, the District Court of the Northern Mariana

Islands shall have exclusive original jurisdiction over all judicial proceedings in the Northern Mariana Islands, both criminal and civil, regardless of the degree of the offense or of the amount involved, with respect to the Northern Mariana Islands Territorial income tax.]

(2) [Suits for the recovery of any Northern Mariana Islands Territorial income tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, under the income-tax laws in force in the Northern Mariana Islands, pursuant to subsection (a) of this section, may, regardless of the amount of claim, be maintained against the government of the Northern Mariana Islands subject to the same statutory requirements as are applicable to suits for the recovery of such amounts maintained against the United States in the United States district courts with respect to the United States income tax. When any judgment against the government of the Northern Mariana Islands under this paragraph has become final, the Chief Executive Officer shall order the payment of such judgments out of any unencumbered funds in the treasury of the Northern Mariana Islands.]

(3) (Execution shall not issue against the Chief Executive Officer or any officer or employee of the

Need an appropriation

government of the Northern Mariana Islands on a final judgment in any proceeding against him for any acts or for the recovery of money exacted by or paid to him and subsequently paid into the treasury of the Northern Mariana Islands, in performing his official duties under the income-tax laws in force in the Northern Mariana Islands pursuant to subsection (a) of this section, if the court certifies that—

(A) probable cause existed; or

(B) such officer or employee acted under the directions of the Chief Executive Officer or his delegate.

When such certificate has been issued, the Chief Executive Officer shall order the payment of such judgment out of any unencumbered funds in the treasury of the Northern Mariana Islands.]

(4) [A civil action for the collection of the Northern Mariana Islands Territorial income tax, together with fines, penalties, and forfeitures, or for the recovery of any erroneous refund of such tax, may be brought in the name of and by the government of the Northern Mariana Islands in the District Court of the Northern Mariana Islands or in any district court of the United States or in any court having the jurisdiction of a district court of the United States.]

(5) [The jurisdiction conferred upon the District Court of the Northern Mariana Islands by this subsection shall not be subject to transfer to any other court by the legislature.]

Why

(j) [For purposes of Title VI, "Chief Executive Officer" means the popularly-elected head of the Executive Branch of the Northern Mariana Islands Government.]

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August 28, 1974

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Title VI

Territorial Income Tax

Section 602(a). The income-tax laws in force in the United States of America and those which may hereafter be enacted shall be likewise in force in the Northern Mariana Islands as a separate Territorial income tax, payable to the government of the Northern Marianas Islands. Such tax is designated the "Northern Mariana Islands Territorial income tax."

(b) The Legislature of the Northern Mariana Islands shall have the power by due enactment to amend, alter, modify or repeal the Northern Mariana Islands Territorial income tax, provided, however, that all such enactments shall, as provided in section (c) of this title, be reported to the Congress of the United States which, until January 1, 1980,^{*/} reserves the power and authority to annul the same.

(c) The Executive Branch of the Northern Mariana Islands Government shall transmit to the Congress of the United States copies of any amendment, alteration, modification or repeal of the Northern Marianas Territorial income tax within thirty days after such enactment which amendment, alteration,

^{*/} [Use date five years from effective date of Territorial income tax.]

modification or repeal shall become effective by its terms if not annulled by the Congress of the United States within sixty days after such report is received by the Congress of the United States.

(d) The administration and enforcement of the Northern Mariana Islands Territorial income tax shall be performed by or under the supervision of the Chief Executive Officer. Any function needful to the administration and enforcement of the income-tax laws in force in the Northern Mariana Islands pursuant to subsection (a) of this section shall be performed by any officer or employee of the government of the Northern Mariana Islands duly authorized by the Chief Executive Officer (either directly or indirectly by one or more redelegations of authority) to perform such function.

(e) (1) The income-tax laws in force in the Northern Mariana Islands pursuant to subsection (a) of this section include but are not limited to the following provisions of the Internal Revenue Code of 1954, where not manifestly inapplicable or incompatible with the intent of this section: Subtitle A (not including chapter 2 and section 931); chapters 24 and 25 of subtitle C, with reference to the collection of income tax at source on wages; and all provisions of subtitle F which apply to the income tax, including provisions as to crimes, other offenses, and forfeitures contained in chapter 75.

(2) The Chief Executive Officer or his delegate shall have the same administrative and enforcement powers and

remedies with regard to the Northern Mariana Islands Territorial income tax as the Secretary of the Treasury, and other United States officials of the Executive Branch, have with respect to the United States income tax. Needful rules and regulations not inconsistent with the regulations prescribed under section 7654(e) of the Internal Revenue Code of 1954 for enforcement of the Northern Mariana Islands Territorial income tax shall be prescribed by the Chief Executive Officer. The Chief Executive Officer or his delegate shall have authority to issue, from time to time, in whole or in part, the text of the income-tax laws in force in the Northern Mariana Islands pursuant to subsection (a) of this section.

(f) In applying the Northern Mariana Islands Territorial income tax pursuant to subsection (a) of this section, except where it is manifestly otherwise required, the applicable provisions of the Internal Revenue Code of 1954 shall be read so as to substitute "the Northern Mariana Islands" for "United States," "Chief Executive Officer or his delegate" for "Commissioner of Internal Revenue" and "Collector of Internal Revenue," "District Court of the Northern Mariana Islands" for "district court" and with other changes in nomenclature and other language, including the omission of inapplicable language, where necessary to effect the intent of this section.

(g) Any act or failure to act with respect to the Northern Mariana Islands Territorial income tax which constitutes a criminal offense under chapter 75 of subtitle F of the Internal Revenue Code of 1954, as included in the income-tax laws in force in the Northern Mariana Islands pursuant to subsection (a) of this section, shall be an offense against the government of the Northern Mariana Islands and may be prosecuted in the name of the government of the Northern Mariana Islands by the appropriate officers thereof.

(h) The government of the Northern Mariana Islands shall have a lien with respect to the Northern Mariana Islands Territorial income tax in the same manner and with the same effect, and subject to the same conditions, as the United States has a lien with respect to the United States income tax. Such lien in respect of the Northern Mariana Islands Territorial income tax shall be enforceable in the name of and by the government of the Northern Mariana Islands. Where filing of a notice of lien is prescribed by the income-tax laws in force in the Northern Mariana Islands pursuant to subsection (a) of this section, such notice shall be filed in the Office of the Clerk of the District Court of the Northern Mariana Islands.

(i) (1) Notwithstanding any other provision of law to the contrary, the District Court of the Northern Mariana

Islands shall have exclusive original jurisdiction over all judicial proceedings in the Northern Mariana Islands, both criminal and civil, regardless of the degree of the offense or of the amount involved, with respect to the Northern Mariana Islands Territorial income tax.

(2) Suits for the recovery of any Northern Mariana Islands Territorial income tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, under the income-tax laws in force in the Northern Mariana Islands, pursuant to subsection (a) of this section, may, regardless of the amount of claim, be maintained against the government of the Northern Mariana Islands subject to the same statutory requirements as are applicable to suits for the recovery of such amounts maintained against the United States in the United States district courts with respect to the United States income tax. When any judgment against the government of the Northern Mariana Islands under this paragraph has become final, the Chief Executive Officer shall order the payment of such judgments out of any unencumbered funds in the treasury of the Northern Mariana Islands.

(3) Execution shall not issue against the Chief Executive Officer or any officer or employee of the

government of the Northern Mariana Islands on a final judgment in any proceeding against him for any acts or for the recovery of money exacted by or paid to him and subsequently paid into the treasury of the Northern Mariana Islands, in performing his official duties under the income-tax laws in force in the Northern Mariana Islands pursuant to subsection (a) of this section, if the court certifies that—

(A) probable cause existed; or

(B) such officer or employee acted under the directions of the Chief Executive Officer or his delegate.

When such certificate has been issued, the Chief Executive Officer shall order the payment of such judgment out of any unencumbered funds in the treasury of the Northern Mariana Islands.

(4) A civil action for the collection of the Northern Mariana Islands Territorial income tax, together with fines, penalties, and forfeitures, or for the recovery of any erroneous refund of such tax, may be brought in the name of and by the government of the Northern Mariana Islands in the District Court of the Northern Mariana Islands or in any district court of the United States or in any court having the jurisdiction of a district court of the United States.

(5) The jurisdiction conferred upon the District Court of the Northern Mariana Islands by this subsection shall not be subject to transfer to any other court by the legislature.

(j) For purposes of Title VI, "Chief Executive Officer" means the popularly-elected head of the Executive Branch of the Northern Mariana Islands Government.

Department of the Interior - Bureau of Land Management - 7000 P.O. Box

TERRESTRIAL TERRITORIES AND INSULAR POSSESSIONS 48 § 1421h

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§ 1421e. Duty on articles
All articles coming into the United States from Guam shall be subject to duty as provided for in section 1301a of Title 19, U.S.C., as amended Sept. 1, 1954, c. 1213, Title IV, § 402(b), 68 Stat. 1140.

Legislative History: Customs Duties 13; Territories 18; C.J.S. Customs Duties 13; C.J.S. Territories § 6.
1954 Amendment. Act Sept. 1, 1954, substituted section to subject Guam to the same provision for importations from other possessions contained in section 1301a of Title 19, Customs Duties.
Effective Date of 1954 Amendment. Amendment of section by Act Sept. 1, 1954, effective on and after the thirtieth day following Sept. 1, 1954, see note set out under section 160 of Title 19, Customs Duties.
Legislative History: For legislative history and purpose of Act Sept. 1, 1954, see 1954 U.S. Code Cong. and Adm. News, p. 3900.

§ 1421f. Title to property transferred
* * * * *
(c) All property owned by the United States in Guam, the title to which is not transferred to the government of Guam by subsection (a) of this section, or which is not placed under the control of the government of Guam by subsection (b) of this section, is transferred to the administrative supervision of the Secretary of the Interior, except as the President may from time to time otherwise prescribe: *Provided*, That the Secretary of the Interior shall be authorized to lease or to sell, on such terms as he may deem in the public interest, any property, real and personal, of the United States under his administrative supervision in Guam when needed for public purposes.
Amended Sept. 11, 1968, Pub.L. 90-497, § 12(b), 82 Stat. 848.

1968 Amendment. Subsec. (c). Pub.L. 90-497 substituted "the Secretary of the Interior" for "the head of the department or agency designated by the President under section 1421a of this title" in the main body of subsec. (c) and "the Secretary of the Interior" for "the head of such department or agency" in the proviso.
Legislative History. For legislative history and purpose of Pub.L. 90-497, see 1968 U.S. Code Cong. and Adm. News, p. 4967.

Index to Notes

Waters of Guam 1
I. Waters of Guam
The waters immediately adjacent to Naval Communication Station in Guam, and below low-water mark, are outside exclusive jurisdiction of United States and are a proper subject of legislation by Guam Legislature. *U. S. v. Borja*, D.C. Guam 1991, 191 F.Supp. 503.

§ 1421h. Duties and taxes to constitute fund for benefit of Guam
All customs duties and Federal income taxes derived from Guam, the proceeds of all taxes collected under the internal-revenue laws of the United States on articles produced in Guam and transported to the United States, its Territories, or possessions, or consumed in Guam, and the proceeds of any other taxes which may be levied by the Congress on the inhabitants of Guam, and all quarantine, passport, immigration, and naturalization fees collected in Guam shall be covered into the treasury of Guam and held in account for the government of Guam, and shall be expended for the benefit and government of Guam in accordance with the annual budgets except that nothing in this chapter shall be construed to apply to any tax imposed by chapter 2 or 21 of Title 26. As amended Sept. 13, 1960, Pub.L. 86-778, Title I, § 103(u), 74 Stat. 941.

1960 Amendment. Pub.L. 86-778 inserted a new clause providing that nothing in this chapter shall be construed to apply to any tax imposed by chapter 2 or 21 of Title 26.
Legislative History: For legislative history and purpose of Pub.L. 86-778, see 1960 U.S. Code Cong. and Adm. News, p. 3500.

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Library references

Customs and Duties § 135.
Internal Revenue § 801, 2481.
Territories § 18.
United States § 82.
U.S. Customs and Duties § 205.
U.S. Internal Revenue §§ 393, 1021.
U.S. Territories § 6.
U.S. United States § 122.

1. Administration and collection

Under section 1421 et seq. of this title, Congress intended employees who earn income for personal services in Guam to pay income tax imposed by provisions of Act into the territorial treasury to sustain the local government of the island. *Larkin v. Brown & Root, Inc.*, C.A. Guam 1953, 233 F.2d 220.

Complaint by citizens of Territory of Guam to recover income taxes assertedly illegally collected was insufficient, in view of section 1421 et seq. of this title, which imposes a separate territorial income tax to be enforced by the proper officials of the government of Guam. *Phelan v. Taitano*, C.A. Guam 1953, 233 F.2d 117.

This section and section 1421i, providing that federal income taxes derived from Guam shall be covered into the treasury of Guam and held in account for government of Guam, and shall be expended for benefit and government of Guam in accordance with annual budgets, and providing that the income-tax laws in force in the United States and those which may hereafter be enacted shall be in force in Guam, impose a territorial tax

to be collected by the proper officials of the government of Guam. *Laguana v. Ansell*, D.C. Guam 1952, 102 F.Supp. 819, affirmed 212 F.2d 207, certiorari denied 75 S.Ct. 61, 348 U.S. 830, 99 L.Ed. 634.

Where corporate employer of taxpayer in Guam withheld income-tax payments and paid them to Acting Treasurer of Guam under this section, providing that federal income taxes derived from Guam shall be covered into the treasury of Guam and held in account for that government, and section 1421i of this title, providing that income-tax laws in force in the United States and those which hereafter may be enacted shall be in force in Guam, and the United States construed these sections as establishing territorial tax to be administered by officials of Guam, taxpayer could not be heard to say that tax should be returned to him in order that it be paid to United States and returned to Guam treasury from which it was taken. *Id.*

2. Exemptions

This section and section 1421h were intended to impose full burden of income taxation, measured by the federal tax, in territory of Guam, and taxpayer in Guam would not be entitled to benefit of provisions in the federal income tax laws, sections 251 and 252 of Title 26, granting exemptions from taxation of income derived from sources within possession of the United States. *Laguana v. Ansell*, D.C. Guam 1952, 102 F.Supp. 819, affirmed 212 F.2d 207, certiorari denied 75 S.Ct. 61, 348 U.S. 830, 99 L.Ed. 634.

§ 1421i. Income tax—Applicability of Federal laws

(a) The income-tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in Guam.

Guam Territorial income tax

(b) The income-tax laws in force in Guam pursuant to subsection (a) of this section shall be deemed to impose a separate Territorial income tax, payable to the government of Guam, which tax is designated the "Guam Territorial income tax".

Enforcement of tax

(c) The administration and enforcement of the Guam Territorial income tax shall be performed by or under the supervision of the Governor. Any function needful to the administration and enforcement of the income-tax laws in force in Guam pursuant to subsection (a) of this section shall be performed by any officer or employee of the government of Guam duly authorized by the Governor (either directly, or indirectly by one or more redelegations of authority) to perform such function.

Definition of "income-tax laws"; administration and enforcement; rules and regulations

(d) (1) The income-tax laws in force in Guam pursuant to subsection (a) of this section include but are not limited to the following provisions of the Internal Revenue Code of 1954, where not manifestly inapplicable or incompatible with the intent of this section: Subtitle C (not including chapter 2 and section 931); chapters 24 and 25 of subtitle C, with reference to the collection of income tax at source on wages; all provisions of subtitle F which apply to the income tax, including provisions as to crimes, other offenses, and forfeitures contained in chapter 75. For the period after 1950 and prior to the effective date of repeal of any provision of the Internal Revenue Code of 1939 which corresponds to one or more of those provisions of the Internal Revenue

TERRITORIES AND INSULAR POSSESSIONS 48 § 1421i

of 1954 which are included in the income-tax laws in force in Guam pursuant to subsection (a) of this section, such income-tax laws include but are not limited to such provisions of the Internal Revenue Code of 1939.

(2) The Governor or his delegate shall have the same administrative and enforcement powers and remedies with regard to the Guam Territorial income tax as the Secretary of the Treasury, and other United States officials of the executive branch, have with respect to the United States income tax. Needful rules and regulations not inconsistent with the regulations prescribed under section 7654(e) of the Internal Revenue Code of 1954 for enforcement of the Guam Territorial income tax shall be prescribed by the Governor. The Governor or his delegate shall have authority to issue, from time to time, in whole or in part, the text of the income-tax laws in force in Guam pursuant to subsection (a) of this section.

Substitution of terms

(e) In applying as the Guam Territorial income tax the income-tax laws in force in Guam pursuant to subsection (a) of this section, except where it is manifestly otherwise required, the applicable provisions of the Internal Revenue Codes of 1954 and 1939, shall be read so as to substitute "Guam" for "United States", "Governor or his delegate" for "Secretary or his delegate", "Governor or his delegate" for "Commissioner of Internal Revenue" and "Collector of Internal Revenue", "District Court of Guam" for "district court" and with other changes in nomenclature and other language, including the omission of inapplicable language, where necessary to effect the intent of this section.

Criminal offenses; prosecution

(f) Any act or failure to act with respect to the Guam Territorial income tax which constitutes a criminal offense under chapter 75 of subtitle F of the Internal Revenue Code of 1954, or the corresponding provisions of the Internal Revenue Code of 1939, as included in the income-tax laws in force in Guam pursuant to subsection (a) of this section, shall be an offense against the government of Guam and may be prosecuted in the name of the government of Guam by the appropriate officers thereof.

Lien

(g) The government of Guam shall have a lien with respect to the Guam Territorial income tax in the same manner and with the same effect, and subject to the same conditions, as the United States has a lien with respect to the United States income tax. Such lien in respect of the Guam Territorial income tax shall be enforceable in the name of and by the government of Guam. Where filing of a notice of lien is prescribed by the income-tax laws in force in Guam pursuant to subsection (a) of this section, such notice shall be filed in the Office of the Clerk of the District Court of Guam.

Jurisdiction of District Court; suits for recovery or collection of taxes; payment of judgment

(h) (1) Notwithstanding any provision of section 1424 of this title or any other provision of law to the contrary, the District Court of Guam shall have exclusive original jurisdiction over all judicial proceedings in Guam, both criminal and civil, regardless of the degree of the offense or of the amount involved, with respect to the Guam Territorial income tax.

(2) Suits for the recovery of any Guam Territorial income tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum

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alleged to have been excessive or in any manner wrongfully collected, under the income-tax laws in force in Guam, pursuant to subsection (a) of this section, may, regardless of the amount of claim, be maintained against the government of Guam subject to the same statutory requirements as are applicable to suits for the recovery of such amounts maintained against the United States in the United States district courts with respect to the United States income tax. When any judgment against the government of Guam under this paragraph has become final, the Governor shall order the payment of such judgments out of any unencumbered funds in the treasury of Guam.

(3) Execution shall not issue against the Governor or any officer or employee of the government of Guam on a final judgment in any proceeding against him for any acts or for the recovery of money exacted by or paid to him and subsequently paid into the treasury of Guam, in performing his official duties under the income-tax laws in force in Guam pursuant to subsection (a) of this section, if the court certifies that—

(A) probable cause existed; or

(B) such officer or employee acted under the directions of the Governor or his delegate.

When such certificate has been issued, the Governor shall order the payment of such judgment out of any unencumbered funds in the treasury of Guam.

(4) A civil action for the collection of the Guam Territorial income tax, together with fines, penalties, and forfeitures, or for the recovery of any erroneous refund of such tax, may be brought in the name of and by the government of Guam in the District Court of Guam or in any district court of the United States or in any court having the jurisdiction of a district court of the United States.

(5) The jurisdiction conferred upon the District Court of Guam by this subsection shall not be subject to transfer to any other court by the legislature, notwithstanding section 1424(a) of this title.

As amended Aug. 20, 1958, Pub.L. 85-638, § 1, 72 Stat. 681; Oct. 31, 1972, Pub.L. 92-606, § 1(d), 86 Stat. 1497.

References in Text. The Internal Revenue Code of 1954, referred to in the text, is classified to Title 26, Internal Revenue Code. Subtitle, chapter and section designations in Title 26 correspond with those of the Internal Revenue Code of 1954.

1972 Amendment. Subsec. (d) (2). Pub.L. 92-606 substituted "Needful rules and regulations not inconsistent with the regulations prescribed under section 7611(e) of the Internal Revenue Code of 1954" for "Needful rules and regulations".

1958 Amendment. Subsec. (a) formerly entire section, so designated by Pub.L. 85-638.

Subsecs. (b)-(h) added by Pub.L. 85-638.

Effective Date of 1972 Amendment. Amendment Pub.L. 92-606 applicable with respect to taxable years beginning after December 31, 1972, see section 2 of Pub.L. 92-606, set out in part as a note under section 935 of Title 26, Internal Revenue Code.

Ratification of assessments and collections made before August 20, 1958. Section 2 of Pub.L. 85-638, provided that: "Income taxes heretofore assessed by the authorities of the government of Guam pursuant to, or under color of, section 31 of the Organic Act of Guam [this section], the collection of such taxes, and all acts done to effectuate such assessment and collection are hereby legalized, ratified and confirmed as fully, to all intents and purposes, as if section 1 of this Act [adding subsecs. (b)-(h) of this section] (subsections (b) to (g), inclusive, of which are hereby declared to express the true intentment of said section 31 as

it was prior to enactment of this Act [August 20, 1958]) had then been in force and effect: *Provided,* That if it shall be judicially determined that, except for the enactment of this Act, assessment or collection of such taxes or an act done or required to be done in order to effectuate such assessment and collection would not, in the particular circumstances of the case, have been law under said section 31 [this section] as was prior to enactment of this Act, a penalty shall be imposed for failure to have made timely payment of such tax or to have complied at the prescribed time with a requirement intended to effectuate the assessment and collection thereof, but such penalty shall be imposed for any failure to make payment to comply which continues more than sixty days from the date of this Act [August 20, 1958]."

Legislative History: For legislative history and purpose of Pub.L. 85-638, see 1958 U.S. Code Cong. and Adm. News, p. 3647. See, also, Pub.L. 92-606, 1972 U.S. Code Cong. and Adm. News, p. —.

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