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An Act to Amend the Internal Revenue Code of 1954 and the Virgin Islands Organic Act with respect to the Income Tax Laws Applicable to the United States Virgin Islands.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:

SECTION 1. COORDINATION OF UNITED STATES AND VIRGIN ISLANDS INCOME TAXES.

(a) Coordination of individual income taxes.-- Section 935 of the Internal Revenue Code of 1954 (relating to coordination of United States and Guam individual income taxes) is amended to read as follows:

"Section 935. Coordination of individual income tax laws of United States and certain possessions.

"(a) Application of section.--This section shall apply to any individual for the taxable year who --

"(1) is a resident of a section 935 possession,

"(2) is a citizen of a section 935 possession

but not otherwise a citizen of the United States,

"(3) has income derived from a section 935 possession for the taxable year and is either

(i) a citizen or resident of the United States,

(ii) a resident of another section 935 possession, or

(iii) a citizen of another section 935 possession but not otherwise a citizen of the United States, or

"(4) files a joint return with an individual who satisfies paragraph (1), (2), or (3) for the taxable year.

"(b) Filing requirement.--

"(1) In general.--Each individual to whom this section applies for the taxable year shall file his income tax return for the taxable year--

"(A) if he is a resident of the United States, with the United States,

"(B) if he is a resident of a section 935 possession, with such possession, and

"(C) if neither subparagraph (A) nor subparagraph (B) applies--

"(i) if he is a citizen of a section 935 possession but not otherwise a citizen of the United States, with such possession, or

"(ii) if clause (i) does not apply, with the United States,

"(2) Determination date.--[same as present law]

"(3) Special rule for joint returns.--[same as present law]

"(c) Extent of income tax liability.--In the case of any individual to whom this section applies for the taxable year--

"(1) for purposes of so much of this title (other than this section, chapter 24, and section 7654) as relates to the taxes imposed by this chapter, the United States shall be treated as including each section 935 possession,

"(2) for purposes of so much of the Guam territorial income tax (other than section 935, chapter 24, and section 7654 thereof) as relates to the taxes imposed by chapter 1 thereof, Guam shall be treated as including the United States and each other section 935 possession,

"(3) for purposes of so much of the Virgin Islands territorial income tax (other than section 935, chapter 24, and section 7654 thereof) as relates to the taxes imposed by chapter 1 thereof, the Virgin Islands shall be treated as including the United States and each other section 935 possession, and

"(4) such individual is hereby relieved of liability for income tax for such year to the jurisdiction (the United States or a section 935 possession) other than the jurisdiction with which he is required to file under subsection (b).

"(d) Special rules for estimated income tax.--[same as present law]

"(e) Definition. For purposes of this section, the term "section 935 possession" means Guam and the Virgin Islands of the United States.

"(f) Cross References.--

"(1) For provisions relating to collection of income tax at source on wages of an individual described in subsection (a), see section 3401 of this title, section 3401 of the Guam territorial income tax, and section 3401 of the Virgin Islands territorial income tax.

"(2) For certain filing requirements relating to the coordination of United States and Guam individual income taxes, see section 7654."

(b) Amendments regarding wage withholding.--

(1) Wage withholding provisions.--Subsection () of section 3401 (relating to wage withholding on individuals employed in United States possessions) is amended to read as follows:

[to be drafted IF NECESSARY; strong Committee Report may be preferable, however--see attached memo]

(2) Wage withholding tax credit.--Section 31(a)

(1) is amended by striking the words "section 3402" and inserting in lieu thereof the words "section 3402 of this title, or under section 3402 of the Guam territorial income tax or of the Virgin Islands territorial income tax,".

(c) Amendments regarding corporations.--

(1) Subsection (b) of section 881 (relating to income of foreign corporations not connected with United States business) is amended to read as follows:

"(b) Exception for Guam and Virgin Islands corporations.--For purposes of this section, the term "foreign corporation" does not include a corporation created or organized in Guam or in the Virgin Islands of the United States, or under the law of Guam or of the Virgin Islands of the United States."

(2) Subsection (c) of section 1442 (relating to withholding of tax on foreign corporations) is amended to read as follows:

"(c) Exception for Guam and Virgin Islands corporations.--For purposes of this section, the term "foreign corporation" does not include a corporation created or

organized in Guam or in the Virgin Islands of the United States, or under the law of Guam or of the Virgin Islands of the United States."

(d) Technical and conforming amendments.--

(1) Subsection (a) of section 932 (relating to citizens of possessions of the United States) is amended by deleting the words "Puerto Rico or Guam." and inserting in lieu thereof the words "Puerto Rico, Guam, or the Virgin Islands of the United States."

2. Subsection (b) of section 932 is deleted, and subsection (c) thereof is relettered as subsection (b) and is amended to read as follows:

"(b) Cross References.--

"(1) Guam.--For provisions relating to the individual income tax law in the case of Guam, see sections 935 and 7654; see also sections 30 and 31 of the Act of August 1, 1950 (48 U.S.C., secs. 1421h and 1421i).

"(2) Virgin Islands.--For provisions relating to the individual income tax law in the case of the Virgin Islands, see section 935; see also the Act entitled "An Act making appropriations for the naval

service for the fiscal year ending June 30, 1922, and for other purposes," approved July 12, 1921 (48 U.S.C. 1397), relating to the imposition of income taxes in the Virgin Islands of the United States."

Section 2. Amendment of Virgin Islands Organic Act.--

Section 1397 of Title 48 of the United States Code is amended to read as follows:

[revised § 1397 will read the same as 48 USC §1421i, pertaining to Guam, except that the last sentence of §1421i(d) (1) is deleted, the words "not inconsistent with the regulations prescribed under section 7654(e) of the Internal Revenue Code of 1954" in §1421i(d) (2) are deleted, and the word "Guam" is changed to read "Virgin Islands" wherever it appears.]

Section 3. Clarification of United States and Guam coordination rules.--Subsection (d) of section 7654 is amended to read as follows:

"(d) United States Government Employees in Guam.-- In addition to any amount determined in subsection (a), the United States shall pay to Guam at such times and in such manner as determined by the Secretary the amount of the taxes deducted and withheld by the United States under chapter 24 with respect to compensation paid to

"(1) members of the Armed Forces who are stationed in Guam but who have no income tax liability to Guam with respect to such compensation by reason of the Soldiers and Sailors Civil Relief Act (50 App. U.S.C., sec. 501 et seq.), and

"(2) all other individuals who are employed by the United States or any agency thereof, to the extent that such compensation is derived from sources within Guam."

Section 4. Effective dates.--The amendments made by sections 1 and 2 shall apply to taxable years beginning after December 31, 1974. The amendment made by section 3 shall apply to taxable years beginning after December 31, 1972.

Draft Virgin Islands bill--wage withholding taxes

1. Section 935(c), as it now reads, provides that Guam and the United States shall be deemed to be one jurisdiction for the purpose of each separate income tax law. For purposes of section 3401, however, this rule would result in double wage withholding on an individual working in either jurisdiction. Thus, the L&R draft Guam regulations state that the bill does not intend to include section 3401, and the Virgin Islands draft confirms this interpretation by excluding chapter 24 from the general rule of section 935(c).

2. Stateside citizens working in Guam and the Virgin Islands are exempt from U.S. wage withholding tax under section 3401(a)(8)(A)(ii), because Guam or Virgin Islands wage withholding tax is imposed on their wages. Stateside citizens who work in the United States would also appear to be subject to Guam and Virgin Islands wage withholding tax -- even though they have never had any contact with either possession -- because the exceptions in section 3401(a)(8) of the "mirror" Code cannot be read to include individuals working in the United States [the reason is because the term "possession" cannot be read to mean "United States" in reverse, but can only refer to possessions other than the one which is interpreting its mirror Code]. Nevertheless, both Guam and the Virgin Islands have interpreted section 3401(a)(8) to allow such an exception, and it may be desirable to clarify this interpretation by amendment of section 3401, or by amendment of the Guam Organic Act and the Virgin Islands Organic Act.

3. The bill amends section 31(a) to allow a full credit for wage withholding tax imposed by the United States, by Guam, or by the Virgin Islands on a nonresident who is resident in one of the other two jurisdictions. This amendment is necessary because of the first amendment described above.