CHAPTER 1.

BUSINESS LICENSES.

Sec. 1. License required. — Any person, partnership, corporation or association engaging in the business of importing, exporting, selling of securities, banking, insurance, conducting or operating public utilities, as a condition precedent to engaging or continuing in such business, shall obtain from the director of finance of the Trust Territory, through the district administrator, a license to engage in or conduct such business. (Code 1966, § 1144; Code 1970, tit. 77, § 1.)


§ 2. Transfer; term; expiration date; proration of first year fees. — Licenses issued under this chapter not be transferable and shall be valid on the basis of a fiscal year period (July 1 to June 30) and, regardless of when issued, shall expire on the thirtieth day of June of the year for which issued or renewed; provided, that all original license fees shall be prorated and one-fourth of the annual fee charged for each quarter or portion of a quarter remaining in the fiscal year from the date of issuance. (Code 1966, § 1144; Code 1970, tit. 77, § 2.)

§ 3. Schedule of fees. — The following annual fees shall be paid for the respective license at time of issuance and on or before the thirtieth day of June of each year, except as otherwise provided for in section 2 of this chapter:

(1) Importer, one hundred dollars per annum;
(2) Exporter, ten dollars per annum;
(3) Banks, two hundred fifty dollars per annum;
(4) Securities dealers, two hundred fifty dollars per annum;
(5) Insurance companies, two hundred dollars per annum;
(6) Insurance brokers, seventy-five dollars per annum;
(7) Insurance agents, fifty dollars per annum; and
(8) Public utilities, two hundred fifty dollars per annum. (Code 1966, § 1144; Code 1970, tit. 77, § 3.)

§ 4. **Multiple locations and combinations of businesses.** — Any person, partnership, corporation or association who operates or conducts businesses in two or more locations in the Trust Territory or who operates or conducts any business which consists of a combination of two or more of the classes of businesses outlined in this chapter shall obtain a separate license for each such location and class of business. (Code 1966, § 1144; Code 1970, tit. 77, § 4.)

§ 6. **Revocation or suspension.** — The director of finance of the Trust Territory with the approval of the Attorney General may revoke or suspend any license issued under this chapter, upon finding, after public notice and adequate hearing, that such revocation or suspension is in the public interest. Any person aggrieved by any such decision of the director of finance shall be entitled to a review of the same by the trial division of the high court upon written appeal made within thirty days from the date the decision is issued. Upon review, the findings of the director of finance, if supported by substantial evidence, shall be conclusive. The filing of an appeal shall not stay the order of revocation or suspension, unless irreparable damage is alleged. (Code 1966, § 1144; Code 1970, tit. 77, § 6.)
§ 51. Repealed by P.L. No. 4C-4, § 1.

§ 52. Repealed by P.L. No. 6-118, § 3.

§ 53. Levy. — (1) The following import taxes are hereby levied on all products specified herein which are imported into the Trust Territory for resale except that the taxes levied under subsections (e) to (g) of this section shall apply to products which are imported into the Trust Territory for personal use and consumption as well as for resale:

(a) Cigarettes, seven cents per every twenty cigarettes;
(b) Tobacco, other than cigarettes, fifty percent ad valorem;
(c) Perfumery, cosmetics and toiletries, including cologne and other toilet waters, articles of perfumery, whether in sachets or otherwise, and all preparations used as applications to the hair or skin, lipsticks, pomades, powders and other toilet preparations not having medicinal properties, twenty-five percent ad valorem;
(d) Soft drinks and nonalcoholic beverages, at the rate of two cents on each twelve fluid ounces or fractional part thereof;
(e) Beer and malt beverages, at the rate of four cents per can or bottle of twelve fluid ounces or fractional part thereof;
(f) Distilled alcoholic beverages, at the rate of seven dollars per wine gallon, except that any person permitted by applicable district law to possess, consume and use distilled alcoholic beverages, may bring into such district of the Trust Territory tax free, an amount of liquor not to exceed two fifths of a wine gallon per trip, if such liquor is for his personal use and consumption and not for resale;
(g) Wine, at the rate of two dollars per wine gallon, except that this tax shall not apply to any religious organization which is importing or receiving into the Trust Territory sacramental wine for use in the religious rites of such organization;
(h) Foodstuffs for human consumption, one percent ad valorem;
(i) All other imported products, except those specified above and gasoline and diesel fuel, three percent ad valorem.

(2) Any commodities subject to a tax under this section which are not received by the importer or certified as damaged may be exempted from such tax upon certification of damage or nonreceipt by the carrier or his agent.

(3) Any person who imports commodities into the Trust Territory and then exports them to a buyer who is outside of the territorial limits of the Trust Territory shall be entitled to a refund of any import taxes actually paid on such commodities upon application to the director of finance. (Code 1966, § 1153; Code 1970, tit. 77, § 53; P.L. No. 4C-1, § 1; P.L. No. 4C-66, § 1; P.L. No. 5-43.)
CHAPTER 3.

MISCELLANEOUS REVENUE MEASURES.

Sec.
101. Gasoline and diesel fuel tax.

§ 101. Gasoline and diesel fuel tax. — (1) The power to levy and collect taxes on gasoline and diesel fuel is reserved to the Congress of Micronesia.
(2) An excise tax is hereby levied upon the use, distribution or sale within the Trust Territory of all gasoline and diesel fuel at the rate of five cents per gallon so used, distributed or sold. (Code 1966, § 1146; Code 1970, tit. 77, § 101.)

Cross references. — Federated States of Micronesia, Part III, Title 77, ch. 3.
Marshall Islands, Part IV, Title 77, ch. 3.
CHAPTER 4.

COLLECTION, RECORDS AND DISTRIBUTION OF REVENUE GENERALLY.

Sec. 151. Tax liens.
Sec. 152. Civil action of enforcement.
Sec. 153. Prepayment of license fees; revocation of license for failure to pay fees.
Sec. 154. Rules and regulations; deposit into treasury.

§ 151. Tax liens. — Any taxes imposed or authorized under this title 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. (Code 1966, § 1147; Code 1970, tit. 77, § 151.)

§ 152. Civil action of enforcement. — Any taxes or license fees imposed or authorized under this title or under any district law may also be collected by a civil suit brought either in the name of the taxing unit concerned or in the name of the person authorized to collect the same. In such civil suit a written statement of the treasurer of the unit concerned, as to the amount of tax due, the fact that it is unpaid, and who is authorized to collect it, shall be sufficient evidence of these matters unless the contrary is expressly shown. (Code 1966, § 1147; Code 1970, tit. 77, § 152.)

§ 153. Prepayment of license fees; revocation of license for failure to pay fees. — The prepayment of any license fee imposed or authorized under this title or under any district law may be made a condition of the issuance of the license. If the licensing authority issued the license without prepayment of the fee, the license may be revoked by the licensing authority at any time if the fee is not paid within such time as the licensing authority shall fix. (Code 1966, § 1147; Code 1970, tit. 77, § 153.)

§ 154. Rules and regulations; deposit into treasury. — The director of finance of the Trust Territory, with the approval of the High Commissioner, shall prescribe such rules and regulations as are necessary to collect all taxes, fees and charges levied or imposed under this title and all such taxes, fees and charges shall be deposited in the treasury of the Trust Territory for appropriation by the Congress of Micronesia. Such rules and regulations shall wherever practicable require payment in full of all taxes, fees and charges immediately upon assessment and, in the case of import taxes, before any merchandise is released by the carrier or his agent to the importer and, in the case of export taxes, before any merchandise is loaded on any vessel or aircraft. (Code 1966, § 1147; Code 1970, tit. 77, § 154.)

§ 155. 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 title 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 High Commissioner or his authorized representative for at least three years after the date of such transaction. Any person, firm, corporation or association wilfully failing to keep or make available for examination such records shall be guilty of a misdemeanor and upon conviction thereof shall be punished in accordance with the terms of section 201, chapter 5 of this title, and, in addition thereto, shall be subject to the immediate revocation of any relevant existing license to do business in the Trust Territory. (Code 1966, § 1147; Code 1970, tit. 77, § 155.)
§ 156. Distribution of revenues. — The treasurer of the Trust Territory shall pay eighty percent of the taxes collected pursuant to section 101, chapter 3 of this title and fifty percent of the taxes collected pursuant to section 53, chapter 2 of this title, into the treasury of the district government to which the taxes are attributable for appropriation by the district legislature. (Code 1966, § 1147; Code 1970, tit. 77, § 156; P.L. No. 4C-4, § 2; P.L. No. 5-91; P.L. No. 6-52, § 4; P.L. No. 6-118, § 4.)

§ 157. Grace period. — All taxes assessed, levied or imposed by law prior to and which are unpaid as of October 3, 1967 are hereby declared to be due and payable within sixty days following that date. Any person who, or firm, corporation, partnership or association which, owes such taxes and fails to pay them in full, including interest at the rate of six percent per annum, shall be subject to the penalties prescribed in chapter 5 of this title and the director of finance of the Trust Territory shall collect or cause to be collected such taxes, interest and penalty in accordance with chapter 5 of this title or in any other manner authorized by law. (Code 1966, § 1152; Code 1970, tit. 77, § 157.)
CHAPTER 5.

PENALTIES FOR VIOLATIONS.

Sec.
201. Wilful violation of revenue laws.
202. Monthly penalty upon unpaid taxes and fees.

§ 201. Wilful violation of revenue laws. — Any person who wilfully violates any of the provisions of this title, or any license, rule or regulation issued thereunder, shall upon conviction be imprisoned for a period of not more than one year, or fined not more than five hundred dollars, or both. (Code 1970, tit. 77, § 201.)

§ 202. Monthly penalty upon unpaid taxes and fees. — In case of failure to pay any tax, fee or charge levied or imposed under this title when due, there shall be added to the amount due ten percent of the amount of such tax, fee or charge if the failure is not for more than one month, with an additional ten percent for each additional month or fraction thereof during which such failure continues, not exceeding one hundred percent in the aggregate. (Code 1970, tit. 77, § 202.)
CHAPTER 6.

TAXES ON SALARIES, WAGES AND GROSS REVENUES OF BUSINESSES.

§ 250. Short title. — This chapter shall be entitled the "Trust Territory Income Tax Law." (P.L. No. 5-26, § 10.)

Cross Reference. — Marshall Islands, Part IV, Title 77, ch. 3.

§ 251. Definitions. — Whenever used in this chapter unless the subject matter, context or sense otherwise requires:

(1) "Business" means any profession, trade, manufacture or other undertaking carried on as either a sole proprietorship, partnership or corporation for pecuniary profit and includes all activities whether personal or professional carried on within the Trust Territory for economic benefit either direct or indirect.

(2) "Director" means the director of the department of finance of the Trust Territory government.

(3) "Corporation" means any body politic, whether corporate or not corporate.

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

(5) "Employer" includes any individual, corporation, association, joint stock company, bank, insurance company, credit union, cooperative or other entity or group employing any person, and also includes the treasurer of the Trust Territory government, the treasurer of any administrative district, the treasurer of any municipality, whether chartered or not, and any other officer or agent of the Trust Territory or any district or municipality, charged with the disbursement of public monies as salaries or wages to employees of the Trust Territory government, any district government, any district legislature, or any municipality, or any department or agency thereof, as the case may be, insofar as such disbursements are concerned. "Employer" also includes the United States government and instrumentalities thereof.

(6) "Fiscal year" means the period of twelve months commencing on the first day of January in each year normally referred to as the calendar year, or such other period where there is an approved established accounting terminal date.
(7) "Income" means income to a person arising in respect of:
(a) Profits from farming, agriculture, forestry, fishing and other marine resource related activities or other primary activity;
(b) Profits from the operations of mines or the exploitation of natural or mineral resources;
(c) Profits from any other trade or business;
(d) Profits from the practice of any profession or vocation or in respect of management charges;
(e) Profits from any interest, discounts, annuities or other annual or periodical sums;
(f) Rents from real property and royalties from the operation of mines, quarries, or other natural resources;
(g) Rentals and royalties for the use or the right to use copyrights, patents, or trademarks;
(h) Premiums, commissions, fees, and license charges;
(i) Dividends;
(j) Wages and salaries from any employment or office; and
(k) Gifts in cash.

(8) "Military or naval forces of the United States" means all regular and reserve components of the uniformed services which are subject to the jurisdiction of the secretary of the army, navy, or air force, and also includes the coast guard.

(9) "Nonresident business" means a business that is not a "resident business" under the definition of this section.

(10) "Resident business" means a business that is organized under the laws of the Trust Territory, or that is controlled in the Trust Territory because at least fifty-one percent of the ownership is held by residents of the Trust Territory.

(11) "Person" means an individual, sole proprietor or corporation, but does not mean a partnership.

(12) "Taxable income" means the aggregate amount of the income of any person remaining after allowing the appropriate deductions and exemptions under this chapter.

(13) "Wages" and "salaries" include all emoluments or compensation paid to an individual for personal services, including overtime, bonuses, stipends, fees, and commissions; any contribution paid by the employer on behalf of the employee to an approved fund or scheme; the estimated annual value of any quarters or board or residence or utilities; or any other allowance granted in respect of employment or office, whether in money or otherwise, except where otherwise exempt. (P.L. No. 4C-2, § 1; P.L. No. 4C-14, §§ 1 to 3; P.L. No. 5-26, §§ 1 to 3; P.L. No. 6-75, §§ 3, 4; P.L. No. 7-32, § 1.)

Cooperative associations are businesses. — Contention that cooperative associations are not businesses as defined in this Code and therefore not subject to tax is a contention without merit. Ponape Fed'n of Coop. Ass'ns v. Peterson (Tr. Div., May, 1975).

"Cooperative" comes within the broad definition of "business" because the term "for pecuniary profit" means for the profit of stockholders or members. It is a general term, not a word of art, and includes any entity or undertaking which makes money. By the very purpose of forming a cooperative, it is indeed mandatory that the cooperative make money to pass on to the members in kind, or credit, or else the function of the cooperative is meaningless. Ponape Fed'n of Coop. Ass'ns v. Peterson (App. Div., April, 1976).

Test for non-profit organizations. — Cooperative associations cannot be regarded as non-profit organizations. To determine whether or not a given corporation or association is a non-profit organization, the usual test is whether dividends or other pecuniary benefits are paid to its members. (Ponape Fed'n of Coop. Ass'ns v. Peterson (Tr. Div., May, 1975).

Gross revenues construed. — Gross revenues of the entire operative income of a cooperative association (excluding any refunds, rebates and returns received by it) without deductions of any sort, and a tax upon gross revenues is not a tax upon either gross profits or
§ 252. Tax on wages and salaries; imposed; amounts. — (1) There shall be assessed, levied, collected and paid a tax of three percent upon the first eleven thousand dollars and five percent upon the amount over the first eleven thousand dollars of all wages and salaries received by every employee, as defined, except as provided in subsection (2) of this section.

(2) Every employee, as defined, except those whose gross annual wages and salaries are five thousand dollars or more, shall be allowed a deduction of one thousand dollars per year from all wages and salaries subject to tax levied by subsection (1) of this section and received by the employee in the year in which the deduction is claimed. The deduction shall be claimed by the employee filing for a refund under the provisions of section 267 of this title. (P.L. No. 4C-2, § 2; P.L. No. 4C-14, § 6; P.L. No. 5-79; P.L. No. 6-52, § 3; P.L. No. 7-32, § 2; P.L. No. 7-67, § 1.)


§ 253. Same; withholding by employer. — The tax imposed by section 252 of this title 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 and shall pay such tax to the district finance officer of the administrative district in which the employer has his principal place of business, or to the director, if the employer has no place of business in the Trust Territory. Any employer who violates any of the provisions of this section shall be subject to the penalties prescribed in this chapter. (P.L. No. 4C-2, § 3; P.L. No. 7-32, § 3; P.L. No. 7-82, § 1.)

§ 254. Same; employer to file return covering tax on compensation. — (1) The employer shall, on or before the last day of the month following the close of each quarter, to wit, on or before April 30, July 31, October 31, and January 31, pay the tax withheld, and make a full, true and correct return showing all wages and salaries covered by section 253 of this title paid by him during the preceding quarter, and showing the tax due and withheld thereon, which return shall be filed at the place prescribed in section 253 of this title for payment of the tax 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 feels are advisable, but in no case shall an employer be required to make returns and payments more frequently than monthly. The director, for good cause, may extend the time for making returns and payments but not beyond the last day of the first month next succeeding the regular due date thereof.

(2) 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 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, at the place prescribed in section 253 of this title for the payment of the tax. The director may grant to any employer a reasonable extension of time, not in excess of sixty 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. The director shall prescribe the form of statement required by this subsection and may adopt any United States federal income tax form appropriate for the purpose.

(3) Any employer who violates any of the provisions of this section shall be subject to penalties prescribed in this chapter. (P.L. No. 4C-2, § 4; P.L. No. 5-26, § 4.)

§ 255. Same; taxes withheld by employer held in trust; employer's liability. — All taxes withheld by any employer under section 253 of this title 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. If any employer shall fail, neglect or refuse to deduct and withhold from the compensation paid to an employee, or to pay over, the amount of the tax imposed by this chapter, such employer shall, moreover, be liable to pay to the government the amount of the tax, which amount shall (whether or not tax withholdings constituting trust funds have been commingled with said employer's assets) form a lien on the employer's entire assets, having priority over all other claims and liens. 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. (P.L. No. 4C-2, § 5.)

§ 256. Same; no cause of action against employer for withholding. — No employee shall have any right of action against his employer with respect to any monies deducted from such employee's salaries and wages in compliance or intended compliance with this chapter, and paid to the person designated in section 253 of this title. (P.L. No. 4C-2, § 6.)

§ 257. Same; individual to file return of earned income. — Any individual who is paid or credited wages or salaries from an employer who does not have a place of business in the Trust Territory and does not have an agent within the Trust Territory responsible for making the returns, withholdings and payments of taxes on compensation required by this chapter, shall file a return with and pay the tax due under this chapter to the district finance officer of the administrative district in which he resides or in which he is
present at the time for payment as may be required by the rules of the director, or, if he is not at the time within the Trust Territory, then with and to the director. Any individual who is paid or credited wages from the United States or an instrumentality thereof shall be under the same duty as an individual who is paid or credited wages or salaries from an employer who does not have a place of business in the Trust Territory, unless the tax has been withheld from such salaries and wages as provided by section 253 of this title.

All such returns shall be filed, and the payments thereon shall be made, at the times and in the manner prescribed in sections 253 and 254 (1) of this title and each return shall state the name of the individual filing the same, the name, residence and address of his employer, the total of all compensation received for the preceding three months and the tax due thereon, and shall include such other information and be upon such form as the director shall require or prescribe.

Failure to comply with the provisions of this section shall be punishable under the penalties prescribed in this chapter. The director, upon request of a taxpayer required by this section to make returns, may permit semiannual returns and payments of tax with respect to salaries and wages, and in granting such permission shall fix the date or dates for such filing of returns and payment of taxes. The director, for good cause, may extend the time for making returns and payments, but not beyond the twentieth day of the second month succeeding the regular due date thereof. (P.L. No. 4C-2, § 7.)

§ 258. Tax on gross revenues. — There shall be assessed, levied, collected and paid a tax of forty dollars per year upon that portion of the amount of gross revenues earned by every business subject to the provisions of this chapter which does not exceed ten thousand dollars per year, and there shall be assessed, levied, collected and paid a tax of one and one-half percent per year upon that portion of the amount of gross revenues earned by every business subject to the provisions of this chapter which is in excess of ten thousand dollars per year. Businesses which earn gross revenues of not more than two thousand dollars per year are exempt from taxation under this section. The deduction shall be claimed by the business by filing for a refund under the provisions of section 267 of this title. (P.L. No. 4C-2, § 8; P.L. No. 4C-94, § 1; P.L. No. 5-26, § 5; P.L. No. 7-32, § 4; P.L. No. 7-67, § 2.)


Gross revenues is entire operative income. — Gross revenues consist of the entire operative income of a cooperative association (excluding any refunds, rebates and returns received by it) without deductions of any sort, and a tax upon gross revenues is not a tax upon either gross profits or net profits. Ponape Fed'n of Coop. Ass'ns v. Peterson (Tr. Div., May, 1975).

Gross revenue of slot machines. — For the purposes of slot machine operations, gross revenue in the amount taken from the machines by the owner/taxpayer less the amount of fill or money put in the machine by the owner/taxpayer and less the amount of money paid to players directly from the machines. Tenorio v. Trust Territory (App. Div., April, 1978).

§ 259. Semiannual returns, withholdings and payment of tax on profits from businesses. — (1) Every business, semianually, that is on or before June 30 and December 31, shall pay, based on its profits of the preceding six month period, the amount of tax imposed by this chapter to the district finance officer in the district in which the business has its principal place of business in the Trust Territory, or to the director. Each business shall, on or before the date provided for payment of tax under this subsection, make a full, true and correct return showing all such profits received, accrued or earned, which return shall be filed at the place in this section prescribed for payment of the tax and shall include such other information as shall be required or
prescribed by the director, including the source and the location of the source of any income. The director, for good cause, may extend the time for making payments and returns, but not beyond the last day of the second month succeeding the regular due date thereof.

(2) Every business shall be liable for the payment of the tax required to be deducted and paid by it to the government.

(3) Failure to comply with the provisions of this section shall be punishable under the penalties prescribed by this chapter. (P.L. No. 4C-2, § 9; P.L. No. 5-26, § 6; P.L. No. 7-32, § 5.)

Determination of gross revenue from slot machine. — For the purpose of determining gross revenue derived from the operation of a slot machine, receipt of revenue by the owner is established at the time the machine is opened and coins taken from it, but not before. Money withdrawn is used to pay the obligations of the taxpayer. The money is earned at this point. Tenorio v. Trust Territory (App. Div., April, 1978).

§ 260. Annual income tax returns. — (1) Every individual or business who has income that is subject to tax under this act for a fiscal year shall deliver to the finance officer of the district in which he is a resident or, if he is outside of the Trust Territory, to the director, a return showing the full amount of that income for the fiscal year, in the prescribed form and containing the prescribed information, including the source and location of the source of any taxable income, on or before the thirtieth day of April in the next fiscal year and shall, if absent from the district, give the name and address of an agent residing in the district; provided, that in the case of a partnership the return shall be made by the precedent partner or the partner who is first named in the partnership agreement.

(2) A husband and wife who are living together and are both earning income may elect to make a single return jointly. All payments, credits, refunds or other repayments which would have been made in a separate return of either spouse shall be taken into account in determining tax liability. When filing jointly, both spouses shall be jointly and severally liable. A husband and wife filing separate returns of income shall be treated in every respect as separate individuals except that allowances set forth in section 258, subsection (3), paragraphs (c), (d), and (e), shall be allowed to only one spouse.

(3) The director, for good cause, may extend the time for making payments and returns, but not beyond the last day of the third month succeeding the regular due date thereof.

(4) Any person who refuses, fails or neglects to deliver any return required under the provisions of this section shall be guilty of an offense. (P.L. No. 4C-2, § 10; P.L. No. 7-32, § 6.)

Editor's note. — The reference in subsection as subsequently amended contains no reference to section 258, subsection (3), paragraphs (c), (d), and (e) is published as enacted. Section 258

§ 261. Tax forms. — The director shall prescribe the forms of all returns required to be furnished under the provisions of this chapter or provide for other methods of filing returns and may provide in such forms for the giving of such information as he may deem necessary or advisable. All information required by the form of any return must be included in the return by the person, employer, company, or business responsible for making the return. No return shall be complete unless and until it is signed by or for the employer, business or other person liable to make the return, or by someone authorized to do so in behalf of such employer, business or other person. Every return shall be signed by a natural person. The director may require that, if any person or
persons actually prepare or sign a return for another employer, business or other person, a form stating such facts and authorizing such person to sign such return be signed by the person so preparing or signing the return, and the employer, business or other person in whose name the return is filed. The director may by regulations define the classes of persons to whom this provision shall apply. Any other provision of law to the contrary notwithstanding, no oath shall be required upon any tax return. (P.L. No. 4C-2, § 11; P.L. No. 5-26, § 7.)

§ 262. Regulations. — The director shall, subject to approval of the High Commissioner, prescribe and have printed reasonable regulations for the enforcement of this chapter and such regulations shall have the force and effect of law if they are not in conflict with the express provisions of this chapter or other laws of the Trust Territory. Such regulations shall also provide for the making of returns concerning any taxes imposed by this chapter, and the payment thereof, in any situations not specifically covered by this chapter. (P.L. No. 4C-2, § 12; P.L. No. 4C-14, § 4.)

§ 263. Assessment by director; records and audit. — (1) Upon the failure of any person, business or employer to make and file a return required by this chapter within the time and in the manner and form prescribed, or upon failure to pay any amount due, the director may notify such person, business or employer of such failure and demand that a return be made and filed and the tax paid as required by this chapter. If such person, business or employer upon notice and demand by the director fails or refuses within thirty days after receipt of said notice and demand to make and file a return and pay the tax required by this chapter, the director may make a return for such person, business or employer from any information and records obtainable, and may levy and assess the appropriate amount of tax. Such assessment shall be presumed to be correct unless and until it is proved incorrect by the person, business or employer disputing the amount of the assessment.

(2) All persons, employees and businesses required to make and file returns under this chapter shall keep and maintain accurate records, and said records may be inspected and audited at any reasonable time by the director for the purpose of administering the provisions of this chapter. (P.L. No. 4C-2, § 13.)

§ 264. Penalties for violation of chapter; criminal penalties. — Any person or business convicted under the provisions of this chapter shall be fined not more than one thousand dollars, or, if a natural person, imprisoned not more than one year, or both. (P.L. No. 4C-2, § 14.)

§ 265. Same; civil penalties. — The criminal penalties imposed by section 264 of this title for violation of provisions of this chapter shall be separate from, and in addition to, all other penalties or interest provided for in this section. The following civil penalties are hereby levied and shall be assessed and collected by the director:

(1) Failure to file return on time. Except as may be permitted by the director pursuant to sections 257 and 259 of this title, if any taxpayer fails to make and file a return required under this chapter on or before the date set, unless prior to that date such taxpayer applied for and received an extension for reasonable cause, one percent of the tax shall be added for each thirty days or fraction thereof elapsing between the due date of the return and the date on which it is actually filed; provided, however, that the minimum penalty under this subsection shall be five dollars.

(2) Failure by employer to file statement. Any employer required to furnish a written statement prescribed in paragraph (b) of section 254 of this title who willfully failed to file such statements on the date prescribed thereof, except
with regard to any extension of time for filing, shall be subject to a five dollars penalty for each such statement not so filed.

(3) **Failure to file after demand.** Where taxpayer fails to file return and pay tax after demand in any case where the director makes a return and assesses a tax after a taxpayer's failure or refusal to make and file a return and pay the tax required by this chapter, twenty-five percent of the tax assessed, in addition to the penalties of subsection (1) of this section, shall be added thereto.

(4) **False and fraudulent returns.** If any part of any deficiency is due to fraud with intent to evade the tax, or any portion thereof, fifty percent of the total amount of such deficiency, in addition to the penalties provided in subsections (1), (2) and (3) of this section, shall be assessed and added to the deficiency assessment.

(5) **Interest.** If any tax or penalty imposed by this chapter is not paid on or before the date prescribed for such payment, there shall be collected, in addition to such tax and penalties, interest on the unpaid balance of the tax principal at the rate of six percent per annum from its due date until the date it is paid. (P.L. No. 4C-2, § 15; P.L. No. 5-26, § 8.)

§ 266. **Lien on property.** — All taxes imposed or authorized under this chapter shall be a lien upon any property of the person or business obligated to pay said taxes and may be collected by levy upon such property in the same manner as the levy of an execution. (P.L. No. 4C-2, § 16.)

§ 267. **Refunds.** — (1) If it shall be shown, upon application of an employee, that there has been withheld from his wages or salaries any tax not due thereon, or more than the amount of tax due thereon, or that he has paid from his wages and salaries any tax not due thereon or more than the amount of tax thereon, or if it is shown upon application of the business that it has paid an amount not due as tax under this chapter or greater than the tax levied under this chapter, then the director shall refund the amount found to have been overpaid or otherwise not due and shall pay such refund out of current collections of the tax; provided, the director shall be satisfied that:

(a) The amount so overpaid or otherwise not due has been paid to the government;

(b) The amount of refund claimed has not been used as a credit against any tax or taxes due and payable to the government from such employee; and

(c) Application for such refund was filed within one year after the end of the calendar year in which the amount to be refunded was withheld or paid.

(2) The director shall make a decision on the application for refund within ninety days after it is submitted. (P.L. No. 4C-2, § 17.)

§ 268. **Review of decisions of director.** — (1) If a decision of the director is adverse to the taxpayer, in whole or in part, the taxpayer shall have the right within one year from the date of such decision to institute an action for review, irrespective of the amount, in the trial division of the High Court of the Trust Territory. Such action shall be commenced by filing a petition setting forth assignments of all errors alleged to have been committed by the director in his determination of the assessment, the facts relied upon to sustain such assignments of errors, and a prayer for appropriate relief. The director or his successor in office shall be the defendant in such proceedings.

(2) When the decision of the court or an appeal therefrom becomes final, the director shall, upon presentation of a certified copy of the decree, make such adjustments as are necessary to correct, amend or abate the assessment, and to determine whether any additional amount should be assessed.

(3) Where the assessment is paid, in whole or in part, after the filing of the petition, the court shall not thereby be deprived of jurisdiction. (P.L. No. 4C-2, § 18.)
§ 269. Distribution of revenues. — (1) The income taxes levied, assessed and collected under and pursuant to this chapter shall be paid to the treasurer of the Trust Territory who shall pay fifty percent of such revenues into the general fund of the Congress of Micronesia as local revenue realization available for appropriation by the Congress of Micronesia. The treasurer shall pay the remainder of such revenues into the general funds of the respective district legislatures, proportionate to the taxes collected in that district pursuant to this chapter.

(2) Taxes are attributable to the district from which the taxable income was derived or earned. In the case of income derived from outside the Trust Territory which is subject to tax under section 252 (1) and (2) of this chapter, the tax shall be attributed to the district of the taxed person's residence; provided, that in cases where there are multiple or complex sources of income or residence, the director shall make a determination and apportion the tax among the districts concerned in an equitable manner. (P.L. No. 4C-2, § 20; P.L. No. 7-32, § 7.)

§ 270. Privileged information. — (1) All reports and returns required by this chapter shall be preserved for three years and thereafter until the director orders them to be destroyed.

(2) The director and every employee of the revenue division shall maintain the secrecy of all matters relating to this chapter which come to their knowledge and shall not communicate such matters to any person except for the purpose of carrying into effect this chapter or any other enactment imposing taxes or duties payable to the Trust Territory.

(3) The chief and every employee of the revenue division while in such employment shall not engage in the business or profession of tax accounting or accept employment with compensation, from any person, firm, or corporation for the purpose, directly or indirectly of preparing the tax returns required by the Trust Territory. Nor shall such person accept any employment for the purpose of advising or preparing materials or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the Trust Territory government.

(4) No employee of the revenue division of the Trust Territory government shall be required to produce in any court any matter or thing relating to the taxes imposed by this chapter coming under his notice in the performance of his duties as an employee of the revenue division except when it is necessary to do so for the purpose of carrying into effect any provision of this chapter or any other enactment imposing duties or taxes payable to the Trust Territory government.

(5) Information as to the amount of income or any particular set forth or disclosed in any report or return required under this chapter may, upon request of a committee appointed by the Congress of Micronesia, be furnished to the committee, but the committee or any member, clerk, or other officer or employee thereof shall not disclose any particulars of the information so furnished except to law enforcement officers for the purpose of aiding the detection or prosecution of crimes committed in violation of this chapter.

(6) The Attorney General or other legal representatives of the Trust Territory government may inspect the report of return of any taxpayer who brings an action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this chapter.

(7) Nothing herein shall prohibit the director or his delegate from compiling and publishing statistics or information generally on the returns filed so long as there is no reference to a particular return and the statistics and the information do not in effect divulge the contents of any one return.
(8) Any violation of subsections (2), (3), (4), or (5) of this section shall be a misdemeanor and shall be punishable by a fine of not more than five hundred dollars or imprisonment for not more than six months, or both. (P.L. No. 5-36, § 9.)

§ 271. Relief from double taxation. — If the High Commissioner by order declares that specified arrangements have been made with the government of another country with a view to affording relief from double taxation in relation to income tax imposed by the law of that country, then, subject to such conditions and provisions as may be specified in such order or in any regulations which may be made, the arrangements shall, notwithstanding anything in any enactment, have effect in the Trust Territory. (P.L. No. 7-32, § 8.)

§ 272. Delegation of powers by director. — The director may in writing delegate to any officer or other person any of his powers under this chapter, except the power of delegation, and every delegation shall be revocable at will and any act done or decision made by any officer or other person in pursuance of the delegation of such power shall be deemed to be that of the director; provided, always, that any delegation shall not prevent the exercise of any power or function by the director. (P.L. No. 7-32, § 8.)

§ 273. Withholding tax on gross remittance. — (1) There shall be levied and paid income tax, referred to as "withholding tax," as follows:
   (a) On any dividend paid to a person who is not resident in the district, fifteen percent;
   (b) On any payment made to any person who is not resident in the district, twenty percent.
(2) In this section payment means a gross payment and includes any interest, discounts, annuities or other annual or periodic sums, rentals, royalties, management charges, premiums, commissions, or fees and licenses.
(3) A person paying a dividend or making any payment under this section shall within thirty days account for and pay over the withholding tax to the director or district finance officer of the particular district, and failure to so act shall render such person liable to the payment of ten percent of such sum or ten dollars, whichever is the greater, for every day during which such sum remains outstanding, and the provisions relating to collection and recovery of tax shall apply to any such sum or amount. In addition to the payment of any such sum or amount such person shall be guilty of an offense. (P.L. No. 7-32, § 8.)

§ 280. District surtax. — The district legislatures are hereby authorized to impose a surtax on the taxes imposed under section 252 of this title by duly passed legislation; provided, that no such surtax shall exceed twenty-five percent. Such surtax shall be paid into the general fund of the respective district legislature. The director shall administer and collect such surtax and the income tax imposed under section 252 of this title as a single tax. (P.L. No. 6-52, § 1; P.L. No. 7-32, § 9.)

§ 401. "Legal tender" defined. — The legal tender of the Trust Territory shall be the coins and currencies of the United States; provided, however, no restriction shall be made on the use of local forms or barter and exchange in transactions among citizens of the Trust Territory. (Code 1966, § 1140; Code 1970, tit. 77, § 1201.)

§ 402. Fiscal responsibility of local governments. — Local governments shall be responsible for the following, and shall submit to the district administrator annually for approval a budget providing for:

(1) Payment of salaries of officials whose duties are performed entirely within the jurisdiction of a local government;

(2) Repair and maintenance of public buildings; and

(3) Repair and maintenance of public roads, walks, paths, bridges and wharves within the jurisdiction of the local government, except such roads, bridges or wharves as may be specifically designated by the district administrator as his own responsibility. No expenditures from local government funds shall be made except in accordance with an approved budget. (Code 1966, § 1141; Code 1970, tit. 77, § 1202.)

§ 403. Official responsible for local government funds. — Each local government shall have an official who shall be responsible for the collection and disbursement of all local government funds. (Code 1966, § 1142; Code 1970, tit. 77, § 1203.)

§ 404. Expenditures in excess of amount available. — (1) No officer or employee of the Trust Territory shall make or authorize an expenditure from or create or authorize an obligation under any appropriation, apportionment, reapportionment or allotment of funds of the United States Congress or Congress of Micronesia in excess of the amount available therefrom; nor shall any such officer or employee involve the Trust Territory government in any contract or other obligation, for the payment of money for any purpose, in advance of appropriations made for such purpose.

(2) In the case of a violation of subsection (1) of this section, the director of the department of finance shall immediately report to the High Commissioner and to the Congress all pertinent facts together with a statement of the action taken thereon.

(3) Any officer or employee of the Trust Territory who shall knowingly and wilfully violate subsections (1) or (2) of this section shall upon conviction be fined not more than one thousand dollars, or imprisoned for not more than one year, or both. (P.L. No. 6-108, §§ 1 to 3.)

§ 405. Documentary evidence of Trust Territory obligations. — No amount shall be recorded as an obligation of the Trust Territory unless it is supported by documentary evidence of:
(1) A binding agreement in writing between the parties thereto, including government agencies, in a manner and form and for a purpose authorized by United States or Trust Territory law, executed before the expiration of the period of availability for obligation of the appropriation or fund concerned for specific goods to be delivered, real property to be purchased or leased, or work or services performed; or

(2) A valid loan agreement, showing the amount of the loan to be made and the terms of repayment thereof; or

(3) An order required by United States or Trust Territory law to be placed with an agency; or

(4) An order issued pursuant to a United States or Trust Territory law authorizing purchases without advertising when necessitated by public exigency or for perishable subsistence supplies or within specific monetary limitations; or

(5) A grant or subsidy payable:
   (a) From appropriations made for payment of, or contributions toward, sums required to be paid in specific amounts fixed by United States or Trust Territory law, or in accordance with formulae prescribed by United States or Trust Territory law; or
   (b) Pursuant to an agreement authorized by, or plans approved in accordance with and authorized by, United States or Trust Territory law; or

(6) A liability which may result from pending litigation brought under authority of United States or Trust Territory law; or

(7) Employment or services of persons or expenses of travel in accordance with United States or Trust Territory law, and services performed by public utilities; or

(8) Any other legal liability of the Trust Territory against an appropriation or fund legally available therefor. (P.L. No. 6-111, § 1.)

§ 406. Time limitation on availability of appropriations or funds. — No appropriation or fund which is limited for obligation purposes to a definite period of time shall be available for expenditure after the expiration of such period except for the liquidation of amounts obligated in accordance with section 305 of this title; but no such appropriation shall remain available for expenditure for any period beyond that authorized by United States or Trust Territory law. (P.L. No. 6-111, § 2.)
§ 451. Purpose. — The purpose of this chapter is to create a general fund, and to control all disbursements therefrom. (Code 1970, tit. 77, § 1251.)

§ 452. Established; deposit of revenues. — There is hereby established a general fund of the Congress of Micronesia, into which all revenues raised pursuant to the tax laws and other revenue laws of the Trust Territory shall be deposited. (Code 1970, tit. 77, § 1252.)

§ 453. Disbursements. — The Trust Territory treasurer is hereby authorized to make such disbursements from the general fund of the Congress of Micronesia as may be authorized and appropriated thereby. (Code 1970, tit. 77, § 1253.)
§ 501. Director's administrative responsibilities generally. — The director of the department of finance of the Trust Territory shall be personally responsible for the administration, collection and safekeeping of all moneys due and paid into the treasury of the Trust Territory as general realization of the Congress of Micronesia, and for the disbursement and appropriation thereof, pursuant to law; provided, that in case of larceny or embezzlement of any moneys by any officer of his department or other persons, the director shall be allowed to state in evidence that he had no collusive knowledge thereof, and the establishment of this fact shall discharge him from personal responsibility. (P.L. No. 6-33, § 1.)


§ 502. Records of transactions. — The director of the department of finance of the Trust Territory shall keep, or cause to be kept, in appropriate books, a clear, distinct and full record of all the transactions and business of his department. (P.L. No. 6-33, § 2.)

§ 503. Director's accounting and fund supervisory duties. — The director of the department of finance shall be the general accountant of the general fund of the Congress of Micronesia. He shall audit or cause to be audited and cause to be recorded every receipt and disbursement of money made to, by or through the treasury of the Trust Territory. He shall have complete supervision of all funds of the Congress of Micronesia. Further, he shall have the power, by withholding his approval when necessary, to prevent the misappropriation of public funds as well as the disbursement of public moneys in excess of specific appropriations. (P.L. No. 6-33, § 3.)

§ 504. Accounting methods. — The director of the department of finance shall keep a complete set of double entry books in which he shall open or cause to be opened all government accounts and the several amounts as shown by the appropriation bill, or any other appropriation that may be at any time made by the Congress of Micronesia, and he shall record his daily business transactions in detail therein. He shall also keep ledgers in which he shall open, arrange, and keep in a methodical and systematic manner the various accounts so that the status and condition of all funds and appropriations, of all assets and liabilities, and of all income and expenditures of the general fund of the Congress of Micronesia may at any time be ascertained and known; and further, he shall keep such books and all such other auxiliary books as he may deem necessary for the correct and proper administration of his office. (P.L. No. 6-33, § 4.)
§ 505. **Lapse of unexpended funds.** — Unless otherwise provided by law, all sums of money which are appropriated to the public service for any fiscal period, and which are not expended during the period, shall lapse and shall not be issued or applied in any future fiscal period to the particular service for which the appropriation has been so made, unless a contract of engagement has been made and entered into before the expiration of the fiscal period by which a liability to issue or apply the same has been incurred, and a certified copy of such contract or engagement has been deposited with the director of the department of finance. (P.L. No. 6-33, § 5.)

§ 506. **Closing out accounts and transfer of unexpended balance.** — In all cases where an appropriation of public money is made and an unexpended balance remains to the credit of the appropriation on the books of the director of the department of finance after the purposes of the appropriation have been accomplished, or after the time has expired within which those purposes may be accomplished, or after a time when the reasons for the appropriation have ceased to exist, the director, upon the receipt of a certificate from the head of the department or other public officer who is charged with the duty of expending the appropriation that they have been fully paid and satisfied, may, with the written approval of the High Commissioner, close out the appropriation account and transfer the unexpended balance to the credit of the general fund of the Congress of Micronesia. (P.L. No. 6-33, § 6.)

§ 507. **Rules and regulations.** — The director of finance is hereby given the authority to prescribe departmental rules and regulations which are necessary to carry out the intent of this chapter. (P.L. No. 6-33, § 7.)