TITLE 48 – TAXATION
CHAPTER 1 - INCOME TAX

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

INCOME TAX ACT 1989

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TITLE 48 – TAXATION
CHAPTER 1 - INCOME TAX

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

INCOME TAX ACT 1989

AN ACT to provide for the imposition of tax on wages and salaries, gross revenue of corporate and unincorporated business, income on immovable property, and income of non-residents, and to provide for tax incentives and for matters connected therewith and incidental thereto.

Commencement:			*April 14, 1989*
Source:			*P. L. 1989-50*
Amended By:	*P. L. 1989-67*	*P. L. 1990-70*	*P. L. 1991-134*
P. L. 1992-18	*P. L. 1995-123*	*P. L. 1997-50*	*P. L. 1997-67*
P. L. 1998-71	*P. L. 2003-79*	*P. L. 2004-15*	*P. L. 2006-54*
P. L. 2007-77	*P. L. 2007-90*	*P.L 2018-57*	*P.L. 2022-44*

PART I - PRELIMINARY

§101. Short title.

This Chapter may be cited as the Income Tax Act 1989.**[P.L. 1989-50, §1.]**

§102. Interpretation.

In this Chapter, unless the context otherwise requires:

(a) "**business**" means any profession, trade, manufacture or other undertaking and includes all activities whether personal, professional, unincorporated or incorporated, carried on within the Republic of the Marshall Islands for economic benefit, either direct or indirect; provided, however, that copra

or agricultural production by unincorporated producers collectively or severally and individual fishermen shall not be included as a business under this definition;

(b) "**Department of Finance**" means the Department of Finance of the Republic of the Marshall Islands;

(c) "**employee**" mean any individual who, under the usual common law rules applicable in determining the employer employee relationship, has the status of an employee and includes a self-employed person, an owner, partner, shareholder or a director of any business who receives a wage or salary in any form;

(d) "**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 Government, the treasurer of any Local Government, and any other officer or agent of the Republic of the Marshall Islands or any other Government, or Local Government, charged with the disbursement of public monies as salary or wages to employees of the government, a municipality, or to any department or agency thereof;

(e) "**military or naval forces of the United States**" and "**Armed Forces of the United States**" means all regular and reserve components of the uniformed services of the United States of America which are subject to the jurisdiction of the Secretary of the United States Army, Navy or Air Force, and also includes the United States Coast Guard;

(f) "**month**" means calendar month;

(g) "**person**" means an individual, firm, partnership, company or corporation, whether incorporated or unincorporated;

(h) "**wages**" or "salaries" means and includes commissions, fees, drawing accounts, compensation, emoluments, bonuses, and every and all other kinds of compensation paid for, credited or attributable to personal services performed by an individual, which services have been performed by such person as an employee; provided, however, that "**wages**" and "**salaries**" shall not include the following:

(i) wages and salaries exempted by virtue of any international agreement to which the Republic of the Marshall Islands is a party on which the Gross Revenue Tax has been previously paid by the taxpayer or on which it would be paid if not deducted;

(ii) reasonable per diem and travel allowances to the extent that they do not exceed any comparable Government rates;

(iii) rental value of a home furnished to any employee or reasonable housing allowance paid to any employee, not exceeding nine thousand dollars ($9,000) per annum. Where the rental value of a home or housing allowance paid to an employee is more than nine thousand dollars ($9,000) per annum, the excess amount shall be considered "**wages and salaries**" within the meaning of this Act and therefore subject to tax.

(iv) any payment on account of sickness or accident disability, or any payment of medical or hospitalization expenses, made by the employer; provided, however, that normal wages or salaries paid to an employee for a period of time during which he is excused from work because of sickness shall not be excluded from wages and salaries under this Paragraph;

(v) any payment made to or on behalf of an employee or to his beneficiary from a trust or annuity, including distributions from qualified pension or deferred compensation plan trusts and annuities that are funded in whole or part by taxable wages;

(vi) remuneration paid in any medium other than cash to an employee for service not in the ordinary course of employer's trade or business or for domestic service in a private home of an employer;

(vii) any payment in the form of a scholarship, fellowship, or stipend made to any employee while he is a full-time, bona fide student at an educational institution;

(viii) wages and salaries received by a minister of the gospel, or clergyman from a religious group or organization; or

(ix) wages and salaries received by an employee for services performed or rendered in the capacity of a domestic or household employee for a private individual or family.

(i) "**Gross revenue**" means the gross receipts, cash or accrued, of the taxpayer received as compensation for personal services not in the form of salaries or wages as defined in Paragraph (h) of this Section, and the gross receipts of the taxpayer derived from a trade, business, commerce or sale and the value proceeding or accruing from the sale of tangible personal property or service, or both, and all receipts, actual or accrued by reason of the capital of the business engaged in including interest, discount, rentals, royalties, fees, or other amounts however designated and without any deduction of account of the cost of property sold, the cost of materials used, labor cost, taxes, royalties, interest or discount paid or any other expenses whatsoever. "**Gross revenue**" shall not include the following:

(i) refunds, rebates and returns;

(ii) monies held in a fiduciary capacity;

(iii) that portion of income of a self-employed person that represents reasonable compensation in the nature of a wage or salary paid out of a business; and

(iv) Income earned by a qualified pension or deferred compensation plan trust.

(j) "**Secretary**" means the Secretary of Finance.

(k) "**United States contractor personnel**" means natural persons, who are United States citizens or nationals or United States permanent resident aliens, who are in the Republic, and who are United States contractors or officers or employees of United States contractors.

(l) "**United States contractors**" means the legal entities, including corporations and natural persons, present in the Republic for the purpose of executing their contracts with the Government of the United States, or subcontracts of such contracts, in support of the Armed Forces of the United States and designated as such by the Government of the United States.

(m) **"qualified pension or deferred compensation plan**" means a definite written program and arrangement which is

communicated and maintained by an employer to provide for the livelihood of the employees or their beneficiaries after the retirement of such employees through the payment of benefits determined without regard to profits.

(n) In order for a trust forming part of a pension or deferred compensation plan to constitute a qualified trust the following tests must be met:

(i) It must be part of a pension or deferred compensation plan established by an employer for the exclusive benefit of his employees or their beneficiaries;

(ii) It must be formed or availed of for the purpose of distributing to the employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with the plan;

(iii) It must be impossible under the trust instrument at any time before the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be used for, or diverted to, purposes other than for the exclusive benefit of the employees or their beneficiaries, the payment of trust expenses, and to repay to the employer contributions forfeited by employees;

(iv) It must be part of a plan which benefits prescribed percentage of the employees, or which benefits such employees as qualify under a classification set up by the employer and found by the Secretary of Finance not to be discriminatory in favor of certain specified classes of employees;

(v) It must be part of a plan under which contributions or benefits do not discriminate in favor of certain specified classes of employees;

(vi) It must be part of a plan which provides for non-forfeitable rights after five (5) years of service, except for termination for cause; and

(vii) It must be part of a plan which provides that forfeitures must not be applied to increase the benefits any employee would receive under such plan.

(o) "**Qualified annuity contract**" means a contract issued by an insurance company qualified to do business in the Republic or in a State of the United States and other comparable companies elsewhere. For purposes of preceding sentence, the contract does not include a life, health or accident, property, casualty or liability insurance contract, and must be non-forfeitable.

(p) "**Chief**" means the Chief, Revenue and Taxation Division. **[P.L. 1989-50, §2; amended by P.L.1989-67, §2, repealing Paragraph 2(h)(iii) and reenacting a new Paragraph 2(h)(iii); P.L.1991-134, §2 (1) & (2); P.L. 1992-18, §2(1-4; subsections (h)(v) and (i) amended by P.L.1995-123, §2 and subsections (m), (n), and (o) added by same; subsection (p) added by P.L. 1998-67,§2, and numbering corrected by Commissioner.][(h)(iii) amended by P.L. 2006-54.]**

PART II - TAX ON WAGES AND SALARIES

§103. Tax on Wages and Salaries.

(1) There shall be assessed, levied, collected and paid a tax of eight percent (8%) upon the first $10,400, to be prorated at $200 per week, or $866.67 per month, and twelve percent (12%) upon the amount over $10,400, as prorated by pay period, of all wages and salaries received by every employee, except as provided in subsections (2) and (3) of this Section.

(2) There shall be assessed, levied, collected and paid a tax of five percent (5%) on all wages and salaries received by United States contractor personnel. Wages and salaries of United States citizens or nationals or permanent resident aliens who do not qualify for tax treatment as United States contractor personnel because they or their employer does not qualify as a United States contractor shall be taxed as provided in subsection (1) of this Section, provided that they are not otherwise entitled to tax benefits under the Status of Forces agreement between the Republic and the United States.

(3) Every employee, except those whose gross annual wages and salaries are more than $5, 200, shall be allowed an exemption of $1560 per year as pro-rated by pay-period, 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 exemption is claimed. The exemption shall be allowed by pro-rating the salary at $100. per week

or $433.33 per month and the exemption at $50. Per week or $216.67 per month. Anyone who earns more than $100 per week or $433.33 per month shall not be entitled to the $50 per week or the $216.67 per month exemption. An employee who holds two (2) or more jobs shall be entitled to only one exemption. **[P.L. 1989-50, §3, amended by P.L. 1991-134, §2(3).][subsection (3) amended by P.L. 2003-79]**

§104. Withholding by the employer.

(1) The tax imposed by Section 103 of this Chapter shall be collected by the employer by deducting and withholding the tax imposed on any wages and salaries as and when paid or credited to the employee. Every employer required to deduct and withhold the tax imposed shall be liable for the payment and shall pay such tax to the Secretary of Finance.

(2) Any employee who has had an incorrect amount of tax deducted and withheld from any wages and salaries, and has received a benefit from the incorrect deduction, shall be jointly and severally responsible together with his or her employer, for payment to the Secretary of Finance or his delegate, of any tax shortfall amount as may be assessed.

(3) Failure to comply with this Section shall constitute an offense. **[P.L. 1989-50, §4; amended in its entirety by P.L. 1998-67, §2.]**

§105. Employer to file return covering tax on wages and salaries.

(1) The employer shall, once every four (4) weeks or thirteen (13) times per year, pay the taxes withheld under Section 104 of this Chapter. The employer shall, along with the taxes, within two (2) weeks following the preceding four (4) week period make a full, true and correct return showing all wages and salaries paid by the employer to the employees during the preceding four (4) week period and showing the tax due and withheld thereon as provided in Section 104 of this Chapter. The return shall contain such other information as shall be required or prescribed by the Secretary of Finance.

(2) Every employer required to deduct and withhold any tax on the salaries and wages of any employee shall furnish to each such employee, at least once every four (4) weeks, a written statement showing the wages and salaries paid by the employer to such

employee during the preceding four (4) week period and the amount of tax deducted and withheld or paid with respect to such wages and salaries.

(3) Every employer who violates any of the provisions of this Section shall be guilty of an offense. **[P.L. 1989-50, §5.]**

§106. Taxes withheld by employer held in trust; employer's liability.

All taxes withheld by any employer under this Chapter shall be held in trust by such employer for the Government of the Republic of the Marshall Islands and for payment to the Secretary of Finance 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 be liable to pay to the Government of the Republic of the Marshall Islands the tax withheld which amount shall, whether or not tax withholding 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 in the real property of the employer. The priority of a lien in the personal (movable) property of the employer shall have priority as provided by section 516 of Title 24 MIRC. 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, which he has been required to pay and has paid to the Government of the Republic of the Marshall Islands out of his own funds pursuant to this Section. **[P.L. 1989-50, §6.][Amended by P.L.2007-77.]**

§107. 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 with the intention of compliance with this Chapter and paid pursuant to this Chapter. **[P.L 1989-50, §7.]**

§108. Individual to file return of earned income.

(1) Any individual who is paid or credited wages or salaries from any employer who does not have a place of business in the Republic and does not have an agent within the Republic responsible for making 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 Secretary of Finance. Any individual who is paid or credited wages from the United States of America 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 Republic of the Marshall Islands, unless the tax has been withheld from such salaries and wages as provided in this Chapter.

(2) All such returns shall be filed, and the payment thereon shall be made, at the times and in the manner prescribed in Sections 104 and 105(1) of this Chapter 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 (3) months and the tax due thereon; and shall include such other information and be upon such forms as the Secretary of Finance shall require.

(3) The Secretary of Finance, upon request of a taxpayer required by this Section to make returns, may permit semiannual returns and payment 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 Secretary of Finance, for good cause, may extend the time of making returns and payments, but not beyond the twentieth day of the second month succeeding the regular due date thereof.

(4) A person who fails to file returns or pay the taxes imposed under this Section shall be guilty of an offense. **[P.L. 1989-50, §8.]**

PART III - TAX ON GROSS REVENUE

§109. Tax on Gross Revenues.

There shall be assessed, levied, collected and paid a tax of $80 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 $10,000 per year; and there shall be assessed, levied, collected and paid a tax of three percent (3%) 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 $10,000 per year. **[P.L. 1991-134, §2(4).]**

§110. Returns, withholdings and payment of tax on gross revenue from business.

(1) Every business, on or before the last day of the month following the close of each quarter (on or before April 30, July 31, October 31 and January 31) shall pay, based on its gross revenue of the preceding quarter, the amount of tax imposed by this Chapter to the Secretary of Finance. Each business shall, on or before the date provided for payment of the tax under this subsection, make a full, true and correct return showing all such gross revenue received, accrued or earned, and the amounts deducted and set aside on account thereof during the preceding quarter, and which shall be required by the Secretary of Finance. The Secretary of Finance, for good cause, may extend the time for making payments and returns, but not beyond the last day of the first month succeeding the regular due date thereof.

(2) Notwithstanding subsection (1) above, the Secretary of Finance is authorized to, and may enter into an arrangement with any business for the payment of gross revenue taxes or for the filing of gross revenue returns on a bi-weekly or monthly basis. The arrangement referred to herein means an arrangement to pay current gross revenue taxes and for the filing of current gross revenue returns, as distinguished from an arrangement to settle any past due and outstanding taxes or returns.

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

(4) Failure to comply with the provisions of this Section shall be punishable by the penalties prescribed by this Chapter. **[P.L 1991-134, §2(4).][Amended by P.L. 2004-15]**

§110A. Exemption from tax on gross revenue to quarterly filing.

Notwithstanding the above Section 110(1), any business who are in compliance with Section 110(1) and has a current standing in making consecutive payments of tax in gross revenue may submit a request to the Secretary of Finance for an option to exempt from monthly payment of tax in gross revenue to retain its quarterly filing.**[This Section is inserted by P.L. 2022-44]**

PART IV - APPORTIONMENT

§111. Apportionment.

(1) If an employee is credited or paid salaries or wages derived from, or attributable to, personal services performed or rendered both within and outside the Republic during any given month, then the whole of the salaries or wages shall be presumed to have been earned within the Republic; provided, however, that the employer paying the tax or the employee whose compensation is taxed may file for an apportionment of the tax on a form prescribed by the Secretary of Finance and the tax shall be levied only on that portion of the salary or wages which is attributable to personal services performed or rendered within the Republic.

(2) If any business cams or derives its gross revenue from business activities or undertakings both within and outside the Republic during the taxable year, then the whole of its gross revenue shall be presumed to have been derived from sources within the Republic, provided, however, that the business may file for an apportionment of the tax on a form prescribed by the Secretary of Finance and the tax shall be levied only on that portion which is earned in, or derived from sources or parts of transactions within the Republic.

(3) Wages and salaries include compensation for labor or personal services performed in the Republic; except that compensation for labor or services performed in the Republic shall not be deemed to be income from sources within the Republic if:

(a) the labor or service are performed by a non-resident alien temporarily present in the Republic for a period or periods not exceeding a total of 90 days during the taxable year;

(b) such compensation does not exceed $3,000 (three thousand) in the aggregate; and

(c) the compensation is for labor or services performed as an employee of or under a contract with

(i) a non-resident alien individual, foreign partnership, or foreign corporation not engaged in trade or business within the Republic; or

(ii) an individual who is a citizen or resident of the Republic, a domestic partnership, or a domestic corporation, if such labor or services are performed for an office or place of business maintained in a foreign country by such individual, partnership, or corporation. **[P.L. 1991-134, §2(4); amended by P.L. 1992-18, §2(5).]**

§§112-115. Reserved.[P.L. 1991-134, §2(4).]

§116. Tax on income from immovable property.

(1) There shall be assessed, levied, collected and paid a tax of three percent (3%) per year on all gross income from immovable property leased, exclusive of buildings and other improvements on land, by the lessee of such property.

(2) The tax imposed by subsection (1) of this Section shall be collected by the lessee by deducting and withholding the tax imposed on any lease as and when paid or credited to the lessor. Every lessee, required to deduct and withhold the tax imposed shall be liable for the payment and shall pay such tax to the Secretary of Finance on or before the last day of the month following the close of each quarter (on or before April 30, July 31, October 31 and January 31) by filing a full, true and correct return showing all payments made, payor and description and location of property. Failure to comply with this Section shall constitute an offense. **[P.L. 1991-134, §2(4).]**

PART VI- NON-RESIDENT INCOME TAX

§117. Imposition of non-resident income tax.

There shall be assessed, levied, collected and paid a non-resident tax of ten percent (10%) on the gross income earned by every non-resident person in respect of services provided or performed by such person relating to any client in the Marshall Islands. **[P.L. 1989-50, §17.]**

§118. Liability of the client.

(1) It shall be the duty of every client to deduct or withhold the tax referred to in Section 117 of this Chapter from such person at the time

the fee is paid to him. The tax so deducted shall be paid by him on or before the last day of the month following each quarter, to wit, on or before April 30, July 31, October 31, and January 31. Every such client shall, on or before the date provided for the payment of tax, make a full, true and correct return showing all such fees paid by him.

(2) Where any client fails to deduct or withhold or pay the tax referred to in subsection (1) of this Section, he shall be personally liable to pay the said tax referred to in Section 117 of this Chapter.

(3) Nothing in subsections (1) and (2)of this Section shall relieve such non-resident person from paying the tax referred to in Section 117 of this Chapter. And where the client has paid any tax under this Section, he shall have the right to recover the same from such non-resident person.

(4) Failure to comply with the provisions of this Section shall constitute an offense. **[P.L. 1989-50, §18.]**

§119. Prohibition of practice.

Where any non-resident person fails to pay the tax due under this Part, he shall, in addition to the penalties prescribed in this Chapter, not be permitted to practice or appear before or participate in any proceedings before any court, tribunal or other Governmental agency of the Republic of the Marshall Islands by such authority. And where such person has a license to practice any profession in the Republic, such license shall be canceled by the relevant issuing authority. **[P.L. 1989-50, §19.]**

§120. Interpretation.

In this Part the word:

(a) "client" means a person who engages the services of any non-resident person, and includes a firm, partnership, company or corporation or any national or local government entity, ministry, department, statutory authority, board, commission or other agency, including but not limited to any Local Distribution Authority designated under the Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of the Free Association;

(b) "non-resident person" means a person or body who is not permanently resident in the Republic of the Marshall Islands, or a business not registered in the Republic of the Marshall Islands, or an entity that carries on the business of operating ships in international traffic that is not incorporated in the Republic of the Marshall Islands and that does not have its central management and control, as determined by the place where its Board of Directors or equivalent body meets, in the Republic of the Marshall Islands, and who does not pay any taxes under Parts II or III of this Chapter including a firm, partnership, company or corporation, whether incorporated or unincorporated, or any other business entity.

(c) "services" means any kind of services rendered by a non-resident person and includes legal, medical, accountancy, architecture, surveying or other services in the opinion of the Secretary of Finance rendered for a fee.

(d) "fee" means payment in cash or in kind by the client to the non-resident person for the services rendered by such person. **[P.L. 1989-50, §20; amended by P.L. 1991-134, §2(5) and(6)][Paragraph (b) amended by P.L. 2007-90.]**

§120A. Exemption - Non-Resident Income Tax.

Notwithstanding section 117 above, the ten percent (10%) non-resident tax prescribed therein shall not apply to the salaries and wages and other revenue due to persons, organizations or businesses engaged by:

(a) Foreign Missions and Embassies of the Republic of the Marshall Islands;

(b) Offices of Ministry of Foreign Affairs located outside the Republic. **[new section inserted by P.L. 2006-54.]**

PART VII- TAX INCENTIVES

§121. Tax holiday.

(1) Any new incorporated or unincorporated business, within the meaning of subsection (2) of this Section and with a minimum investment of one million dollars (US $1,000,000) and/or which provides employment and pays wages in a sum over one hundred

fifty thousand dollars (US $150,000) per annum to local Marshallese citizens, shall be exempt from gross revenue tax imposed under Part III of this Chapter for a period of five (5) years commencing from the date of commencement of such business.

(2) The provisions of subsection (1) of this Section shall apply to any incorporated or unincorporated business commenced after October 1, 1989, which commenced to carry on and is engaged in carrying on one or more of the businesses hereinafter specified, namely:

(a) off-shore or deep sea fishing;

(b) manufacturing industry for export or for both export and local use;

(c) agriculture;

(d) hotel and resort facilities.

(3) Notwithstanding the provisions of subsections (1) and (2) of this Section, a consortium formed for the purpose of engaging in deep seabed hard mineral mining within the exclusive economic zone of the Republic of the Marshall Islands shall be exempt from any and all taxes, duties, imposts and charges excepting taxes imposed on wages and salaries, individual income tax, and social security contributions; provided, that such consortium pays to the Government of the Republic of the Marshall Islands a royalty, production charge, or combination of production charge and a share of net proceeds accruing from such deep seabed mining activity.

(4) Any business qualifying under paragraphs (1) through (3) of this Section prior to April 1, 1992 may make an application to the Secretary for a certificate evidencing its status under this Section.

(5) Any business qualifying, or intending to qualify, under paragraphs (1) through (3) of this Section after April 1, 1992 may make an application to the Minister of Finance for a contract of tax exemption on the terms and conditions of paragraphs (1) through (3). Such a contract, if entered into with the approval of the Attorney-General, may be enforced according to its terms.

(6) Because it is the intent of the Nitijela to encourage new investment in the Republic, companies in existence as of 1 October 1989 will not be allowed to qualify for a tax holiday through re-incorporation, reorganization, or other manipulation of assets.

(7) Notwithstanding the provisions of subsection (1), a fish loining plant shall be exempt from a gross revenue tax imposed under Part III of this chapter for a period of twenty-five (25) years, effective from the date of commencement of such business. **[P.L. 1989-50, §21; amended by P.L. 1991-134, §2(7) and (8); P.L. 1992-18, §2(6); subsection (7) added by P.L. 1997-50, §2.]**

§122. Persons, Organizations, and Entities Exempted.

(1) The provisions of Part III of this Chapter, and the taxes levied thereunder, shall not apply to the revenue of the following persons or activities:

(a) the Government of the Republic of the Marshall Islands or any department thereof;

(b) sales of electric, water, sewer, or telecommunication services by public utility companies;

(c) the domestic flights and operations of any government owned corporation providing air transport services;

(d) any government owned copra processing corporation;

(e) corporations, associations, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, and which does not participate or intervene in, including the publishing or distributing of statements, any political campaign on behalf of or in opposition to any candidate for public office; or

(f) cooperative associations organized under an Act of the Nitijela.

(2) The provisions of Part III and Part VI of this Chapter, and the taxes levied thereunder, shall not apply to the revenue of a non-resident person earned in the Marshall Islands from the operation of a ship in international traffic, if the country where the non-resident person resides grants substantially similar tax relief for the year to a person who is a resident of the Marshall Islands.

(3) Prior to claiming an exemption under the provisions of this Section an application must be made in the prescribed manner to the Secretary. Qualifying persons or activities will be issued a certificate

evidencing their status under this Section. **[P.L. 1992-1 8, §2(7).][Subsection (2) amended by P.L. 2007-90, also adding new subsection (3).]**

PART VIII- PROCEDURE

§123. Payment of tax and refunds.

(1) All taxes that are required to be paid under this Chapter and all returns that are required to be filed shall be paid to and filed with the Secretary of Finance.

(2) No refund or credit shall be allowed after one year of the over-payment of tax. **[P.L. 1989-50 §23; amended by P.L. 1991-134, §2(9).]**

§124. Tax forms.

The Secretary of Finance may 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. No return shall be completed unless or 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 on behalf of such employer, business or other person. The Secretary of Finance 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 fact and authorizing the person to sign such return shall be signed by the person so preparing or signing the return and also, by the employer business or other person in whose name the return is filed. The Secretary of Finance may by regulation define the classes of persons to whom this provision shall apply. **[P.L. 1989-50, §24.]**

§125. Assessment by Secretary of Finance.

(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 Secretary of Finance may notify such person, business or employer of such failure and demand that a return be made and filed and that the tax be paid as required by this Chapter. If such person, business or employer upon notice and demand by the Secretary of

Finance fails or refuses within thirty (30) days after receipt of said notice and demand to make and file a return and pay the tax required by this Chapter, the Secretary of Finance 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. Such assessment may be amended by the Secretary of Finance if it is determined to be incorrect.

(2) All persons, employees, employers and businesses required to make and file returns under this Chapter shall keep and maintain accurate records for a period of three (3) years and said records may be inspected and audited at any reasonable time by the Secretary of Finance for the purpose of administering the provisions of this Chapter.

(3) In all cases where taxes assessed to persons unknown are delinquent and unpaid when due, action may be brought by the Secretary and the defendant may be named as unknown. In any such case, it shall be a good and sufficient service of summons, binding on all parties in interest, if under the order of the court the title and the substance of the action and summons, including a return day not less than three (3) from the date of that issuance of such summons, and calling on all parties in interest to appear and defend, shall be published once a week for three consecutive weeks in a newspaper of general circulation in the Republic, and the court is given jurisdiction to order the service. In the summons and in the notice published, a brief description of the property assessed shall be given. Any judgment entered against the defendant shall be enforced only against the property for which the tax was assessed, unless the defendant has appeared in the action and defended on the merits, in which case the defendant shall be liable to a personal judgment with respect to the claim so defended.

(4) Every nonresident person who, jointly, severally, or jointly and severally, is subject to tax under this Chapter, shall file with the Secretary the name and address of a person residing within the Republic upon whom process may be served, and in default of such designation, and if the nonresident person cannot be found in the Republic, service of process in any action for the collection of the

taxes may be made on any manager, superintendent, or other person in charge, employed in the carrying on of the occupation, trade, or business, or the Commanding Officer of the United States defense site in the Republic in the case of United States Contractors, has like effect as if the person so served had been designed by the nonresident as the nonresident's agent for such purpose; provided that nothing therein shall preclude the service of process in any other manner provided by law. **[P.L. 1989-50, §25; amended by P.L. 1991-134, §2(10).]**

§126. Lien on property.

(1) All taxes imposed or authorized under this Chapter shall be a lien upon any and all property of the person or business obligated to pay the taxes, and may be collected by judicial foreclosure upon such property.

(2) The lien imposed by subsection (1) shall not be valid against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor until notice thereof which meets the requirements of subsection (3) has been filed by the Secretary.

(3) The notice referred to in subsection (2) shall be filed as provided by Part III of Chapter 5, Title 24 MIRC. The form and content of the notice referred to in subsection (2) shall be prescribed by Section 531 of Title 24 MIRC.

(4) Subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any income tax not later than thirty (30) days after the day on which:

(a) the Secretary finds that the liability for the amount assessed, together with all interest in respect thereto, has been fully satisfied or has become legally unenforceable; or

(b) there is furnished to the Secretary and accepted by him a bond or letter of credit that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and of the bond and sureties thereon, as may be specified by such regulations.

(5) In any case where there has been a refusal or neglect to pay any tax, or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney-General or his delegate may direct a civil action to be filed in the High Court of the Republic to enforce the lien of the Republic under this Chapter with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which he has any right, title, or interest, to the payment of such tax or liability. Civil actions brought for the collection of tax shall be brought in the name of the Secretary of Finance.

(6) The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property, and, in all cases where a claim or interest of the Republic therein is established, may decree a sale of such property by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the Republic. If the property is sold to satisfy a first lien held by the Republic, the Republic may bid at the sale such sum, not exceeding the amount of such lien with expenses of sale, as the Secretary directs.

(7) In any such proceeding, at the instance of the Republic, the court may appoint a receiver to enforce the lien, or, upon certification by the Secretary during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver. **[P.L. 1989-50, §26; amended by P.L. 1991-134, §2(11); P.L. 1992-1 8, §2(8).][Amended by P.L. 2007-77.]**

§127. Levy and distraint.

(1) If any person liable to pay any tax neglects or refuses to pay the same within ten (10) days after notice and demand, the Secretary may collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property, (except such property as is exempt by law) belonging to such person or on which there is a lien provided in this Chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official of the Republic, or any agency or instrumentality of the Republic, by serving a notice

of levy on the employer of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to period provided in this Section.

(2) The term "levy" as used in this Chapter includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (5), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

(3) Whenever any property or right to property upon which levy has been made by virtue of subsection (1) is not sufficient to satisfy the claim of the Republic for which levy is made, the Secretary may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

(4) There shall be a requirement of notice before levy as follows:

(a) Levy may be made under subsection (1) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

(b) The notice required under Paragraph (a) of this subsection shall, no less than 30 days before the day of the levy, be:

(i) given in person;

(ii) left at the dwelling or usual place of business of such persons; or

(iii) sent by certified or registered mail to such person's last known address.

(c) Paragraph (a) of this subsection shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (1) that the collection of tax is in jeopardy.

(d) The notice required under Paragraph (a) of this subsection shall include a brief statement which sets forth in simple and nontechnical terms:

(i) the provision of this Chapter relating to levy and sale of property;

(ii) the procedures applicable to the levy and sale of property under this Chapter;

(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals;

(iv) the alternatives available to taxpayers which could prevent levy on the property;

(v) the provisions of this Chapter relating to redemption of property and release of liens on property; and

(vi) the procedures applicable to the redemption of property and the release of a lien on property under this Chapter.

(5) The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released.

(6) Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary, surrender such property or rights (or discharge such obligation) to the Secretary, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(7) If a levy has been made or is about to be made on any property, or right to property, any person having custody or control of any books or records, containing evidence or statement relating to the property or rights to property subject to levy, shall upon demand of the Secretary, exhibit such books or records to the Secretary.

(8) Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the Secretary, surrenders such property or rights to property (or discharges such obligation) to the Secretary shall be discharged from any obligation or liability to the delinquent

taxpayer and any other person with respect to such property or rights to property arising from such surrender or payment.

(9) As soon as practicable after seizure of property, notice in writing shall be given by the Secretary to the owner of the property (or, in the case of personal property, the possessor thereof), or shall be left at his usual place of abode or business. If the owner cannot be readily located, or has no dwelling or place of business within the Republic, the notice may be mailed to his last known address. Such notice shall specify the sum demanded and shall contain, m the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(10) The time of sale shall not be less than ten (10) days nor more than forty (40) days from the time of giving public notice under subsection (9). The sale shall be conducted according to regulations adopted by the Secretary.

(11) Any person whose property has been levied upon shall have the right to pay the amount due, together with the expenses of the proceeding, if any, to the Secretary at any time prior to the sale thereof, and upon such payment the Secretary shall restore such property to him, and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(12) There shall be exempt from levy that property exempt from the Enforcement of Judgment Act (30 MIRC 1).

(13) No levy may be 1nade on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy. **[added by P.L. 1991-134, §2(12).]**

§128. Transferred assets.

(1) The liability, at law or in equity, of a transferee of property of a taxpayer in the case of a tax imposed by this Chapter, shall, except as provided in this Section, be assessed, paid and collected in the same manner and subject to the same provisions and limitations as in the case of the taxes with respect to which the liabilities were incurred.

(2) Any liability referred to in subsection (1) may be either as to the amount of tax shown on a return or as to any deficiency or underpayment of any tax.

(3) The period of limitations for assessment of any such liability of a transferee shall be as follows:

(a) in the case of the liability of an initial transferee, within one year after the expiration of the period of limitation for assessment against the transferor; or

(b) in the case of the liability of a transferee of a transferee, within one year after the expiration of the period of limitation for assessment against the preceding transferee, but not more than three (3) years after the expiration of the period of imitation for assessment against the initial transferor;

except that if, before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the initial transferor or the last proceeding transferee, respectively, then the period of limitation for assessment of the liability transferee shall expire one year after the return of execution in the court proceeding.

(4) As used in this Section, the term transferee includes:

(a) any recipient of any transfer in bulk and not in the ordinary course of business of the transferor's business of a major part of the materials, supplies, merchandise or inventory;

(b) any recipient of a fraudulent conveyance.

(5) In proceedings before the High Court the burden of proof shall be upon the Republic to show that a petitioner is liable as a transferee of property of a taxpayer, but not to show that the tax payer was liable for the tax. **[added by P.L. 1991-134, §2(12).]**

§129. Examinations of books and witnesses.

(1) For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any tax or the liability at law or in equity of any transferee of any person of in respect of any tax, or collecting any such liability, the Secretary or his delegate, is authorized :

(a) to examine any books, papers, records, or other data which may be relevant or material to such inquiry;

(b) to summon the person liable for tax or required to perform the act, or any officer or employee of such person or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the Secretary may deem proper, to appear before the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under the oath, as may be relevant or material to such inquiry; and

(c) to take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

(d) to inspect all daily sales records and to obtain correct copies of such records for the purposes of this Chapter.

(2) The purpose for which the Secretary may take any action described in Paragraph (1), (2) or (3) of subsection (1) include the purpose of inquiring into any offense connected with the administration or enforcement of the tax laws.

(3) If any person is summoned under the tax laws to appear, to testify, or to produce books, papers, records, or other data, the District Court or High Court shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data.

(4) Whenever any person summoned under this Section neglects or refuses to obey such summons, or produce books, papers, records, or other data, or to give testimony, as required, the Attorney-General may apply to the District Court or to the High Court for an attachment against him as for a contempt. It shall be the duty of the Judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case, and upon such hearing the judge shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempt, to enforce obedience to the requirements of the summons and to punish such person for his

default or disobedience. **[added by P.L. 1991-134, §2(12).][subsection (1) above amended by P.L. 2004-15, adding paragraph (d).]**

§130. Review.

(1) If a decision of the Secretary of Finance is adverse to the taxpayer, in whole or in part, the taxpayer shall have the right, within ninety (90) days from the date of such decision to institute an action for review, irrespective of the amount, in the High Court. Such action shall be commenced by filing a petition setting forth all errors alleged to have been committed by the Secretary of Finance in his determination of the assessment, the facts relied upon to set aside the errors, and a prayer for appropriate relief. The Secretary of Finance 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 Secretary of Finance 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 or not 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. 1989-50, §27; amended by P.L. 1991-134, §2(13).]**

§131. Taxes collected as part of the revenue of the Government.

The taxes levied, assessed, and collected under and pursuant to this Chapter shall be paid to the Marshall Islands General Fund as revenue realization available for appropriation by the Nitijela. **[P.L. 1989-50, §28.]**

§132. Privileged information.

(1) All reports and returns required by this Chapter shall be preserved for at least three (3) years and until the Secretary of Finance orders them to be destroyed.

(2) The Secretary of Finance and every employee of the Department of Finance shall maintain the secrecy of all information concerning individual taxpayers related to this Chapter which comes to their knowledge and shall not communicate such information to any person except for the purpose of giving effect to this Chapter, the Social Security Act (49 MIRC 1), or any other enactment imposing

taxes or duties payable to the Government of the Republic of the Marshall Islands and only with the express prior permission of the Secretary of Finance.

(3) The Secretary of Finance and every employee of the Department of Finance, 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 tax returns required by the Government of the Republic of the Marshall Islands. 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 Government of the Republic of the Marshall Islands.

(4) No employee of the Department of Finance 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 Department of Finance, 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 Government of the Republic of the Marshall Islands.

(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 Marshall Islands Nitijela, be furnished to the committee, but the committee or any member, clerk, or other officer or employee of the Nitijela shall not disclose any particular 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 Government of the Republic of the Marshall Islands may inspect the report or 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 Secretary of Finance or his employees from compiling and publishing statistics or information generally, from 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) Every person who violates the provisions of subsection (2), (3), (4), or (5) of this Section shall be guilty of a misdemeanor and shall upon conviction be liable to a fine not exceeding five hundred dollars (US $500) or to a term of imprisonment not exceeding six (6) months, or both. **[P.L. 1989-50, §29.]**

§133. Regulations.

(1) The Minister of Finance may make regulations, not inconsistent with this Chapter, for carrying out and giving effect to the provisions of this Chapter, and in particular with regard to the exemption of certain businesses and other forms of taxation paid under any other law.

(2) Regulations made under subsection (1) of this Section shall have same force and effect of laws as if enacted by the Nitijela.

(3) The provisions of the *Marshall Islands Administrative Procedure Act 1979* shall not apply to the regulations made under this Section. **[P.L. 1991-134, §2(14).]**

§134. Authorized persons.

(1) The Secretary of Finance may designate persons to be authorized for the purpose of this Chapter.

(2) The Secretary shall issue to each authorized person an authority in writing, signed on behalf of the Government of the Marshall Islands.

(3) Authorized persons shall produce the authority issued to them under subsection (2) whenever required to do so by a person in respect of whom has exercised, or is about to exercise, any power conferred on them by this Chapter. **[added by P.L. 1998-67, §2.]**

§135. Functions of authorized persons.

(1) Authorized persons shall comply with any direction given to them by the Secretary of Finance in connection with the performance of their functions under this Chapter.

(2) An authorized person may:

(a) for the purposes of this Chapter, require a person to furnish to the authorized person, orally or in writing, as the authorized person may specify, such information as is in the knowledge of, or is reasonably available to, that person;

(b) by notice in writing, require a person to produce to the authorized person any books, records, or other source from which information can be derived that is or may be relevant to the administration of this Chapter;

(c) take samples of any goods in the possession of a person if it appears appropriate for the purposes of this Chapter; and

(d) make copies of anything produced pursuant to a requirement under paragraph (b). **[added by P.L. 1998-67, §2.]**

§136. Secrecy.

(1) An authorized person who uses or discloses any information obtained under this Chapter other than for the purposes of this Chapter or the administration of any other tax administered by the Minister of Finance commits an offense unless the use or disclosure is with written consent of the person from whom the information is obtained or is for the purpose of legal proceedings arising out of the administration of this Chapter or that other tax.

(2) A person who commits an offense under subsection (1) is liable to a fine of up to $500 and or imprisonment for up to (6) months. **[added by P.L. 1998-67, §2.]**

§137. Requirement for legible and accurate Records.

All persons, corporations or business associations and entities, doing business in the Republic, are hereby required to maintain at all times, in the English language, legible and accurate business records of sales and other business transactions that are subject to tax requirements under this Act.

Such records shall be maintained in the standard accounting format. **[new section added by P.L. 2004-15.]**

§138 - 139 – Reserved

PART IX - PENALTIES

§140. Criminal penalties.

Every person or business committing an offense under the provisions of this Chapter shall, upon conviction, in addition to the penalties imposed under Section 141 of this Chapter, be liable to a fine not exceeding one thousand dollars (US $1,000) or, if a natural person, to a term of imprisonment not exceeding one year, or both. **[P.L. 1989-50, §31.]**

§141. Civil penalties.

The criminal penalties imposed by Section 140 of this Chapter 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:

(a) except as may be permitted by the Secretary of Finance pursuant to Section 108 of this Chapter, if any taxpayer fails to make and file a return required under this Chapter, on or before the date set, unless prior to the date such taxpayer applied for and received an extension for reasonable cause, two percent (2%) of the tax shall be added to the tax for each thirty (30) days or fraction thereof between the due date of the return and the date on which it is actually filed; provided, however, that the minimum penalty under this Paragraph shall be fifty dollars ($50.00)

(b) any employer required to furnish a written statement prescribed in Section 105(2) of this Chapter who willfully fails to file such statements on the date prescribed therein, shall pay a penalty of five dollars fifty dollars ($50.00) for each such failure;

(c) after demand, in any case where the Secretary of Finance 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, the taxpayer shall pay a penalty of twenty-five percent (25%) of the tax assessed, in addition to the penalty in Paragraphs (a) and (b) of this Section;

(d) if any part of any deficiency is due to fraud, with intent to evade the tax or any portion thereof, fifty percent (50%) of the total amount of such deficiency, in addition to the penalties provided in Paragraphs (a), (b) and (c) of this Section and in Section 144 below, shall be assessed and added to the deficiency amount; and

(e) 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 one per cent (1%) month from its due date until the date it is paid.

(f) Any person required to collect, truthfully account for, and pay over any tax imposed by this title who willfully fails to collect such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over. The term "person", as used in this corporation, or a member or employee of a partnership who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(g) The following provisions shall apply with respect to the enforcement of a levy:

(i) Any person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the Secretary, shall be liable in his own person and estate to the Republic in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum from the date of such levy. Any amount (other than costs) recovered under this Paragraph shall be credited against the tax liability for the collection of which levy was made.

(ii) In addition to the personal liability imposed by subparagraph (i) of this Paragraph, if any person required to surrender property or rights to property fails or refuses to surrender such property or rights to property without reasonable cause, such person shall be liable for a penalty equal to fifty percent of the amount recoverable under subparagraph (i). No part of such penalty shall be credited against the tax liability for the collection of which such levy was made. **[P.L. 1989-50, §32; amended by P.L. 1991-134, §2(15).][penalties amended by P.L. 2004-15]**

§142. Forfeiture.

(1) Whenever any person who is liable to pay any tax imposed by this Chapter upon, for, or in respect of, any property sells or causes or allows the same to be sold before such tax is paid, with intent to avoid such tax, or in fraud of the tax laws, any debt contracted in such sale, and any security given therefor, unless the same shall transferred to an innocent holder, shall be void, and the collection thereof shall not be enforced in any court.

(2) If such property has been paid for, in whole or in part, the sum so paid shall be deemed forfeited to the Republic.

(3) Any property on which, or for or in respect whereof, any tax is imposed by this Chapter which shall be found in the possession or custody or within the control of any person, for the purpose of being sold or removed by him in fraud of the tax laws, or with design to avoid payment of such tax, or which is removed, deposited, or concealed, with intent to defraud the Republic of such tax or any part thereof, may be seized, and shall be forfeited to the Republic.

(4) It shall be unlawful to have or possess any property intended for use in violating the provisions of the tax laws, or regulations prescribed under such laws, or which has been so used, and no property rights shall exist in any such property. A search warrant may issue as provided in the Criminal Procedures Act (32 MIRC 1) and the Rules of Criminal Procedures for the seizure of such property. Nothing in this Section shall in any manner limit or affect any criminal or forfeiture provision of the tax laws, or of any other law. The seizure and forfeiture of any property under the provisions of this Section and the disposition of such property subsequent to seizure and

forfeiture, or the disposition of the proceeds from the sale of such property, shall be in accordance with existing laws or those hereafter in existence relating to seizures, forfeitures, and disposition of property or proceeds, for violation of the tax laws.

(5) Any property subject to forfeiture to the Republic under any provision of this Chapter may be seized by the Secretary.

(6) The proceedings to enforce such forfeitures shall be in the nature of a proceeding in rem in the District Court or High Court.

(7) In case bond shall have been executed and the property returned before seizure thereof by virtue of process in the proceedings in rem authorized in subsection (6) of this Section, the bailiff shall give notice of pendency of proceedings in court to the parties executing said bond, by personal service or publication, and in such manner and form as the court may direct, and the court shall thereupon have jurisdiction of said matter and parties in the same manner as if such property had been seized by virtue of process aforesaid. **[P.L. 1991-134, §2(16).]**

§143. Deduction of income tax from payment due to defaulters.

(1) Where any employer or employee has made default in the payment of any Tax on Gross Revenue or Tax on Wages and Salaries, the Chief may from time to time by notice in writing, require any person to deduct from any amount payable or to become payable by that person to the employer or employee, such sum as may be specified in the notice, and to pay every sum so deducted to the Chief, to the credit of the employer or employee, within such time as may be specified in the notice.

(2) No such deduction under this Section shall be made from wages or salaries payable to any person.

(3) Any notice under this Section may at any time be revoked by the Chief by a subsequent notice to the person to whom the original notice was given.

(4) A copy of every notice under this Section shall be given to the employer or employee by the Chief.

(5) The sum deducted from any amount pursuant to a notice under this Section shall be deemed to be held in trust for the Government of the

Republic of the Marshall Islands and shall be recoverable in the same manner and in the same respects as if it were tax payable by the person to whom the original notice was given.

(6) Every person who:

(a) Fails to make any deduction required by a notice under this Section to be made from any amount payable by him to an employer or employee commits an offense; and

(b) Fails after making any such deduction to pay the sum deducted to the Chief within the time specified in the notice commits an offense. **[added by P.L. 1998-67, §2.]**

§144. Suspension and Revocation of Business License.

(1) In addition to the penalties set out under sections 140 and 141 and the courses of action available to the Secretary of Finance under sections 142 and 143, businesses that violate the provisions of this Act shall also be liable as follows:

(a) for a first offense, the business shall be liable to the penalties contained in sections 140, 141 and the procedures under sections 142 and 143;

(b) for a second offense, the Secretary of Finance shall recommend to the appropriate Local Government to suspend the businesses license for a period of three (3) months; or

(c) for a third offense, the Secretary of Finance shall recommend to the appropriate Local Government to permanently revoke the business' license.

(2) For the purposes of this Section, the Secretary of Finance shall, enter into a Memorandum of Understanding with all Local Governments concerned, setting out a procedure for the suspension or revocation of a business license. The terms of such a Memorandum of Agreement shall first be approved by Cabinet. **[new section 144 inserted by P.L. 2004-15, original section 144 'Power to remit penalties" repealed]**

§145. Incentive Fee.

(1) Any person who has information that a violation of the provisions of this Act has been committed, or is about to be committed, and provides such information to the Secretary of Finance, and which

information results in the successful conviction of the offender, such person shall be entitled to an incentive fee in an amount equal to five per cent (5%) of the fine payable under Section 140 of this Act. Such incentive fee shall be payable from the proceeds realized as penalties under Part IX herein.

(2) Any person who makes any false and frivolous complaints under subsection (1) above shall be liable to a civil penalty in the amount of one thousand dollars ($1,000).

(3) "Person" as used in subsection (1) above does not include employees of the Public Service Commission and other agencies of government who, by nature of their employment, are required to report such violations. **[new section added by P.L. 2004-14]**

§§146-149. Reserved

PART X - REPEAL AND TRANSITION

§150. Repeal.

(1) Subject to the provisions of subsection (2) of this Section.the*Marshall Islands Income Tax Act 1979* (11 MIRC, Chapter 1), is hereby repealed.

(2) Notwithstanding the provisions of subsection (1) above:

(a) the provisions of the Marshall Islands Revised Code relating to tax on wages and salaries shall remain effective and shall be valid until June 30, 1989: and

(b) the provisions of the Marshall Islands Revised Code relating to gross revenue tax shall remain effective and shall be valid until September 30, 1989.

(3) The Foreign Attorney's Tax Act 1987, P.L. 1987-25 (11 MIRC, Chapter 4), and the *Business Licenses Act 1983*, P.L. 1983-20 (20MIRC, Chapter 2), are hereby repealed. **[P.L. 1989-50, §33.]**

§151. Effective date of certain parts of this Chapter.

Notwithstanding the rest of the provisions of this Chapter:

(a) the provisions of Part II of this Chapter shall come into operation and shall be effective as from July 1, 1989; and

(b) the provisions of Parts III, IV, V and VI of this Chapter shall come into operation and shall be effective from October 1, 1989. **[P.L. 1989-50, §34.]**

§152. Transition from Net Revenue.

(1) Notwithstanding any provisions of the *Income Tax (Amendment) Act 1991*, liabilities created under the *Income Tax Act 1989* continue until paid. In addition, all provisions of the *Income Tax (Amendment) Act 1991* regarding payment of tax, liens, levies, transferred assets, examination of books and witnesses, and related matters apply to such liabilities.

(2) Until April 1, 1993 income or revenue from government contracts in an aggregate amount exceeding $50,000 (fifty thousand) entered into prior to October 1, 1991 shall be taxed in accordance with the provisions of the *Income Tax Act 1989* as if the provisions of that law had not been repealed.

(3) Until April 1, 1993 income or revenue from government contracts in an aggregate amount exceeding $50,000 (fifty thousand) entered into between October 1, 1991 and December 31, 1991, based on a firm bid or irrevocable offer made prior to October 1, 1991, shall be taxed in accordance with the provisions of the *Income Tax Act 1989* as if the provisions of that law had not been repealed.

(4) For purposes of subsections (2) and (3) the term "government contracts" refers only to construction contracts between the national government or statutory authorities and the prime contractor. **[P.L. 1992-18, §3.]**

PART XI- TAX ON HOTEL AND RESORT FACILITIES

§153. Tax on Hotel and Resort Facilities.

(1) There shall be assessed a tax of eight percent (8%) of the daily room rate on hotel and resort facilities in the Marshall Islands. The tax shall be collected by the owner of the room and forwarded to the RMI Government on a monthly basis.

(2) The tax shall be distributed as follows: the RMI Government will receive seven percent (7%) of the eight percent (8%) tax.

(3) Regulations shall be promulgated by the Cabinet.

(4) This Chapter shall not effect a local government's power to enact an ordinance providing for the levy of a hotel tax. **[added by P.L. 1 998-71, §2.][§3(2) is amended to repeal MIVA by P.L 2018-57.]**