

ROPSSA Operations Manuals - Edited Content

Edited Content for Manual Chunk: section 101-112.docx

PART I. GENERAL PROVISIONS

Section 101. Authority

The ensuing rules and procedures are established in accordance with RPPL No. 2-29, as amended by RPPL No. 3-64, and codified in Title 41 of the Palau National Code (hereafter referred to as "PNC"). These rules and procedures have been issued by the Republic of Palau Social Security Board (hereafter referred to as "Board") and carry the force and effect of law. They serve as supplements to 41 PNC, unless otherwise specified by the Board.

[Source: 41 PNC § 711 and § 712(d)]

Section 102. Purpose

The purpose of these operational rules and procedures is to ensure the efficient and economical operation of the Social Security Administration as a governmental administrative agency responsible for administering a compulsory, self-supporting, and self-financing national insurance system known as the Social Security System.

[Source: 41 PNC § 701]

Section 103. To Whom Applicable

These operational rules and procedures are to be enforced by employees of the Social Security Administration (hereafter referred to as "Administration") of the Republic of Palau, applying to all employers and employees covered by and subject to the provisions of 41 PNC.

[Source: 41 PNC § 703]

Section 104. Definitions

Unless otherwise specified, the definitions as set forth in 41 PNC § 702 are incorporated herein by reference for all purposes.

[Source: 41 PNC § 702]

Section 105. Amendment

Any provision of these rules and procedures may be amended by a majority vote of the Board's membership. The Board shall not take official actions that are contrary to these rules and procedures, only to retroactively make such official action in accordance with these rules and procedures.

[Source: 41 PNC § 711, § 712(d), & SSA By-Laws]

Section 106. Sovereign Immunity

The Administration, acting on behalf of the National Government in its official capacity, is protected by the doctrine of sovereign immunity unless otherwise provided. [Doctrine of Sovereign Immunity]

Section 107. Record Keeping

The Administrator shall maintain records of all employees and contributors, including self-employed persons, for a minimum of ten (10) years. Records may be maintained for more than ten (10) years when the Administrator deems it necessary for purposes such as on-going or future legal actions, debt collection, settlement agreements, estate proceedings, or other essential purposes.

[Source: 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 108. Funds

All funds received by the Administration shall be deposited on a daily basis. No funds shall be held overnight. For safety purposes, deposits made after 4:30 shall be accompanied by two (2) Administration employees.

[Source: SSA By-Laws]

Section 109. Discretion of the Administrator

The Administrator shall have the discretion to deviate from these rules and procedures as they deem necessary to best serve the interests of the Administration. In such cases, the Administrator must inform the Board in writing during the next regular meeting. This section does not approve any acts committed by the Administrator that are contrary to law.

[Source: 41 PNC § 724 & SSA By-Laws]

Section 110. Uniformity

All provisions of these rules and procedures shall be interpreted and applied in a uniform, nondiscriminatory manner.

[Article IV, Section 5. ROP Constitution]

Section 111. Severability

If any provision of these rules and procedures or the application thereof to any employee or circumstance is held invalid, the invalidity does not affect other provisions or applications of these rules and procedures that can be given effect without the invalid provision or application. To this end, the provisions of these rules and procedures are severable.

[General Provision]

Section 112. Effective Date

These rules and procedures shall take effect upon their approval by a majority vote of the Board of the Republic of Palau Social Security Administration. Actions prior to the effective date of these rules and

procedures will not be subject to these newly promulgated rules and procedures. [General Provision]

Edited Content for Manual Chunk: section 201-202.docx

PART II. CONTRIBUTIONS (first chunk)

SUB-PART A: REMUNERATION

Section 201. Definition of Remuneration

Remuneration, as defined in 41 PNC § 702(a)(21), refers to salary or wages and is taxable regardless of its name given by the employer or employee. It includes, but is not limited to: hourly or daily wages; salaries; bonuses or awards; sales commissions (on products, equipment, land, housing, insurance, etc.); shares of profits; back pay; land; pay advances; termination pay; tips; space and equipment rental; and the value of food and lodging provided, except in specific cases such as household domestic workers, employees required to accept lodging on the employer's business premises as a condition of employment, and employees whose meals are provided at the employer's place of business for convenience.

Remuneration must be actually or constructively paid to an employee to be taxable and credited to their account. Constructive payment occurs when remuneration is credited to the account of, or set aside for, an employee, so that it may be drawn upon by the employee at any time, even if not yet received. The remuneration must be made available without restriction and must either be credited to or set aside for the employee, or the employer must intend to pay or set aside the remuneration when due to the employee.

Remuneration earned before but paid after an employee's death will be credited to the quarter in which the employee died.

[41 PNC § 702(a)(21)] (Revised 06/01/2009)

Section 202. Maximum Remuneration

The maximum amount of remuneration received during a quarter from one employer by any employee upon which contributions must be deducted and contributed to the Retirement Fund is three thousand dollars (\$3,000.00). This maximum amount will increase to four thousand dollars (\$4,000) on October 1, 2007, five thousand dollars (\$5,000) after October 1, 2008, six thousand dollars (\$6,000) on October 1, 2015, eight thousand dollars (\$8,000) on October 1, 2017. As of October 1, 2020, there will no longer be a maximum amount of remuneration.

[41 PNC § 742] (Revised 03/13/14. See Section 7 of RPPL No. 9-12)

Edited Content for Manual Chunk: section 203–204.docx

PART II. CONTRIBUTIONS CONTINUED

SUB-PART B: SELF-EMPLOYED

Section 203. Determination of Self-Employment & Employer-Employee Relationship

The National Government of the Republic of Palau is an employer within the Republic (ROP). A person employed under a contract may be a self-employed independent contractor or may be in an employer-employee relationship. The factors listed in subsection (d) will be used to make that determination. The labeling of the person in the contract or by any outside party is a factor to consider, but shall not be definitive, in any determination to be made by the Administrator under this section.

The Administrator will determine whether a person is an employee or self-employed using the factors listed below:

1. Behavioral:

- Who controls or has the right to control what the worker does and how the worker does his or her job;
- Who sets the hours of work, the work schedule, or restricts one from working for other persons;
- Who designates the location, place, or area of work;
- Whether the worker must do the work themselves (do not have the power to subcontract the work being performed); and,
- Who pays expenses related to the work being performed.

2. Financial:

- How the worker is paid (by the hour, week, month, by lump sum);
- Who provides tools, vehicles, and supplies;
- Who invests in training, facilities, and equipment;
- What types of benefits are in place (health or other insurance, vacation or sick pay, participating in pension plan, etc.);
- Type of Relationship:
 - Does the worker perform services for a number of persons or firms at the same time;
 - Does the worker advertise to the general public or solicit others that he or she is available to perform services;
 - What written contracts are in place;
 - What is the duration of the work relationship;
 - Can either party terminate the relationship without being liable for damages;
 - The worker makes a profit or suffers a loss depending on the success of the business venture (an employee has no chance for a profit or loss);

Any other factors deemed appropriate by the Administrator.

Some factors may indicate that the worker is an employee, while other factors indicate that the worker is self-employed. There is no “magic” or set number of factors that “makes” the worker an employee or self-employed, and no one factor stands alone in making this determination. Also, factors which are relevant in one situation may not be relevant in another. The keys are to look at the entire relationship, consider the degree or extent of the right to direct and control, and finally, to document each of the factors used in coming up with the determination.

[41 PNC § 702(a)(8), (11), & (13) & U.S. IRS]

A determination made by the Administrator, based on one or more of the above-mentioned factors that a person is an employee or is self-employed, is rebuttable only by clear and convincing evidence. The burden of proof lies with a person appealing a determination made by the Administration. A written determination regarding such matter shall be made available upon written request to the Administrator.

A self-employed person shall be presumed to be his own employer and his own employee, and accordingly is liable to pay to the System with respect to himself for both employer contributions and employee contributions, and shall include himself in reports under section 745.

[41 PNC 741(a), amended per Section 2 of RPPL No. 9-12]

A self-employed individual shall include an officer in a corporation or partner in a partnership or limited ownership corporation that is registered in Palau but does not have employees in Palau.

[41 PNC 741 (e), as amended by Section 2 of RPPL No. 9-12]

Section 204. Self-employed With At Least One Employee

- Remuneration: A self-employed person, who has at least one employee, employed for wages, in a given quarter during the calendar year who receives remuneration from the self-employed person shall be presumed to receive as remuneration in any quarter twice the amount paid to the highest paid employee in that quarter subject to the quarterly maximum.

Example: An employer who is self-employed has three (3) employees which receive \$350, \$500, and \$625 in remuneration in a given quarter. The employer is assumed to be an employee so his or her remuneration will be twice the amount paid to the highest paid employee of that quarter. The highest paid employee receives \$625, so the employer is presumed to receive \$1,250 (\$625 multiplied by 2). The employer is required by law to report their wages as \$1,250.

Reporting: The self-employed person shall have one month from the end of each quarter to file their Social Security contributions report. Any reports received more than one month from the end of the quarter shall be deemed delinquent.

A self-employed person who has, in a given quarter, at least one employee who receives remuneration from him, shall be presumed to receive in any quarter, as remuneration, twice the amount paid to his highest-paid employee in that quarter. A self-employed person under this section who has more than one business, for each of which separate quarterly reports are submitted, shall report his or her wages under the business which has the highest paid employee; such self-employed persons wages shall be reported at twice the amount of the highest paid employee and shall be included in the same report as the highest paid employee of that business.

[41 PNC § 741(b), as amended by Section 2 of RPPL No. 9-12]

Edited Content for Manual Chunk: section 205–206.5.docx

PART II. CONTRIBUTIONS CONTINUED

SUB-PART B: SELF EMPLOYED (second chunk)

****Section 205. Self-employed With No Other Employees****

(a) ****Remuneration****: A self-employed individual, who has no employees during a given quarter, is presumed to receive as remuneration ten percent (10%) of their gross revenue in the current quarter. This presumption can be rebutted by clear and convincing evidence upon determination by the Administration.

(b) ****Reporting****: The self-employed person has one month from the end of each quarter to file their Social Security contributions report. Reports received more than one month after the end of the quarter will be deemed delinquent. Reports received after January 31st will be treated similarly to a private employer. The annual gross revenues will be determined from the information submitted to the Tax Office, which is accessible to the personnel of the Social Security Office under 41 PNC § 810(a).

(c) ****Calculation****: Quarterly wages for self-employed individuals with no employees are calculated by multiplying the quarterly gross revenue in the preceding quarter by ten percent (10%), then multiplying by twelve percent (12%).

[41 PNC § 741(c), as amended by Section 2 of RPPL No. 9-12]

****Example****: Gross Revenue is \$50,000

$\$50,000 \times .10 = \$5,000$ (maximum remuneration is \$5,000 up to September 30, 2015 pursuant to Section 7 of RPPL No. 9-12)

$\$5,000 \times .12 = \600 (amount to report each quarter)

****Total amount of Social Security due for the quarter**:** \$600

****Section 206. Special Circumstances****

(a) ****Self-employed Retail Merchant, Farmer, Fisherman, & Taxi Driver****: A self-employed retail merchant with no employee who receives remuneration from him or her with less than ten thousand dollars (\$10,000.00) of gross revenues in the preceding calendar year or a person working as a farmer, fisherman, or taxi driver, has the option to be covered by 41 PNC, provided that they report themselves based on their Gross Revenue Tax (GRT) or income per quarter.

[41 PNC § 741(d)]

(b) ****Partial Year Operations****: When a self-employed person operates for less than four quarters during the calendar year, or operates for some quarters of the year with no other employees and for some quarters of the year with other employees, remuneration shall be calculated as follows:

- For the quarters where other employees have reported earnings, remuneration shall be calculated as in Section 204(a) and applied to those quarters only; and
- For the quarters where no other employees have reported earnings, remuneration shall be calculated as in Section 205(a) and applied to those quarters only.

This calculation is presumptive and can be rebutted by clear and convincing evidence.

****Example****: A self-employed person with no employees begins operating a business in the second quarter. The business grosses \$4,000 in the second quarter, \$7,000 in the third quarter, and \$4,000 in the fourth quarter for annual gross revenue of \$15,000. Since the person's gross revenues have not yet reached \$10,000, they may, but are not required to, file a report in the second quarter. However, after the third quarter, gross revenues will meet or exceed \$10,000 annually, so reporting and paying contributions will now be required for the year. If the self-employed person chooses to file quarterly, the amount of contributions will be assessed on the gross revenue for each quarter. If the self-employed person files on an annual basis, the revenue shall be presumed to be equally allocated over all four quarters of the year. If the self-employed person provides evidence that operations began in the second quarter, then the gross revenues shall be presumed to be equally allocated over the three quarters of operations.

(c) ****Multiple Businesses****: A self-employed person who has more than one business submitting separate quarterly reports, should first report their remuneration under the business having the highest paid employee. If the maximum amount is not reached, the self-employed person may report additional remuneration using other businesses, up to the maximum amount.

[41 PNC §741 and §742]

(Section 206 previously contained only Subsection (a) and was entitled "Exceptions: Self-employed Retail Merchant, Farmer, Fisherman, & Taxi Driver")

****Section 206.5 Self-Employed Person is Deceased****

When a self-employed individual operating a sole proprietorship is deceased, the Administrator or Executor of the Estate, if one has been appointed, shall be responsible to report to SSA who will act as owner until a permanent transfer of ownership takes place.

If no Administrator or Executor has been appointed or if that person has not reported to SSA, then SSA shall ask the heirs, in writing, to identify, within thirty (30) days of that request, who will act as owner until a permanent transfer of ownership takes place.

If no one is identified by the Administrator, Executor or heirs as the acting owner until a permanent transfer of ownership takes place within (30) days of a written request, SSA shall apply the following order of priority to presume that individual is the acting owner:

- The Administrator or Executor, if one has been appointed;
- The surviving spouse, if any;
- The oldest surviving child, if any;
- The oldest surviving sibling, if any; or
- The closest relative, taking into consideration custom and tradition.

This presumption of ownership applies only until a Court order identifies an owner, until a business license is issued to a new owner, or until other evidence is presented which is sufficient to determine ownership.

The Notice to the heirs shall include a notice that a presumed or acting owner under this policy shall not contribute to National Health Insurance or to a Medical Savings Account for him/herself based on the presumed ownership under this policy.

If no one reports and pays contributions as an owner within two calendar quarters after the date of death of a self-employed individual, SSA may petition the Court for an Administrator or Executor to be appointed and to identify who is responsible to report and pay such owner’s share pending a determination of permanent ownership.

Upon permanent transfer of ownership, the individual identified as the permanent owner may be credited with all contributions paid by an Estate or by a presumed owner, since the date of death, in the discretion of the Administrator or as ordered by the Court as part of a final Order of Distribution.

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PART III. BENEFITS (second chunk)

SUB-PART B: OLD AGE INSURANCE BENEFIT

Section 304. Old Age Insurance Benefit

A person who is fully insured and has reached the age of 60 years and retired is entitled to a monthly old age insurance benefit, starting from the month they become eligible and ending with the month preceding their death, subject to the earnings test.

[40 PNC § 753 (a), as amended by RPPL No. 9-12, Sec. 5]

Fully insured refers to an individual who has not less than one quarter of coverage each year, starting from the later of June 30, 1968 or the year they turn 21 years old, and ending with the year before the earlier of the year they reach retirement age, become disabled, or die.

Retirement Age: $60 = 38 \text{ quarters (age 60 - age 21 - 1 year before the year of retirement age)}$

[40 PNC § 753]

The monthly amount of the benefit is the basic benefit, with a minimum monthly benefit of \$148.00.

[41 PNC § 753 (b), as amended by RPPL No.9-11, Sec. 5]

For individuals who have earned between \$5,470 and \$10,909 and received less than a \$50 increase of the minimum basic benefit of \$148 in October 2013, the benefit for this special group will receive an increase of their basic benefit up to a maximum increase of \$50.

[RPPL 9-35]

A person receiving an old age insurance benefit who returns to employment remains eligible to receive the old age insurance benefit. The benefit will be recomputed to reflect any additional contributions after the end of the calendar year. The recomputed benefit amount will be paid for each month following the end of that calendar year.

For individuals applying for old age insurance benefits after August 2, 2010, the maximum limit of the monthly benefit is 100% of the highest monthly average wage of the wage earner over any twelve quarters of the last forty quarters immediately preceding retirement. Subject to Section 753(b), as of October 1, 2016, the maximum limit of the basic monthly benefit is one hundred percent (100%) of the highest monthly average wage of the wage earner over any twelve (12) quarters out of the last forty (40) quarters preceding retirement, commencing October 1, 2016.

[41 PNC § 753 (e), added by RPPL No. 9-11, Sec. 5]

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PART III. BENEFITS (fourth chunk)

SUB-PART D: SURVIVING SPOUSE & CHILD INSURANCE BENEFITS

Section 323. Dependency

1. The Administration will determine dependency for a surviving child or impaired adult if they received regular, periodic payments of money or contributions of food, clothing, shelter, medical care, tuition, and other necessities and services required for or by a child or impaired adult from the deceased insured person. These contributions must constitute a substantial part of the ordinary living costs of the child or impaired adult.
2. Occasional or irregular gifts or donations do not qualify to establish dependency. Temporary interruptions in contributions, however, for circumstances beyond the control of the insured person, shall be disregarded unless someone else takes over responsibility for support on a permanent basis.
3. A child or impaired adult living with the insured person at the time of the insured person's death and who is related to the decedent as a natural child, stepchild, adopted child (legally or under Palauan custom), grandchild, or step-grandchild will be presumed to be a dependent of such insured person. This presumption can be rebutted through clear and convincing evidence.
4. A child or impaired adult living with the insured person at the time of the insured person's death who is not related as described above must demonstrate dependency.

[Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 324. Bona Fide Student

(a) The Administration will determine that a person or child is a bona fide student for the purposes of eligibility for payment of a surviving child's insurance benefit if:

1. They attend a school providing elementary or secondary education, including technical, vocational, or trade schools, junior colleges, colleges, and universities, as determined under the law of the jurisdiction in which the school is located. They must furnish the Administrator with a form (ROPSSA 630-20) completed by the officials of the school attended;
2. They are in full-time attendance in day or evening non-correspondence courses and are carrying a subject load which is considered full-time for a day student under the institution's standards and practices, with scheduled attendance at the rate of at least twelve (12) hours per week and a course of study which is at least thirteen (13) weeks in duration; or

3. They are enrolled as a student at an elementary or secondary school and attend such school on a regular basis.

Note: If a person is being paid while attending a school by an employer who has requested or required that the person attend the school, they shall not be deemed a bona fide student.

(b) If a person is a full-time student, then eligibility may continue during a period of non-attendance if all the following conditions are met:

1. The non-attendance is four (4) consecutive months or less;
2. The person shows that they intend to resume their studies as a full-time student at the end of the period or the next period; and
3. The period of non-attendance is not due to expulsion or suspension from school or from incarceration relating to the commission of a crime.

[Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 325. Computation of Survivor Benefits

1. The monthly total of the survivor's insurance benefits payable with respect to a deceased employee contributor shall not exceed the basic benefit applicable to him or her immediately before death, without recomputation of benefits for earnings after retirement pursuant to 41 PNC § 753(c). However, the minimum amount of the total of a survivor's insurance benefit is one hundred forty-eight dollars (\$148.00) per month, computed before the application of section 755(c). Prior to that date, the minimum monthly benefit amount was ninety-eight dollars (\$98.00) per month, computed before the application of the surviving spouse's benefit pursuant to 41 PNC § 755(c).

[41 PNC § 753, as amended by RPPL No. 9-11, Sec.5]

2. The total of all survivors' benefits payable to survivors of a decedent shall not exceed the basic benefit applicable to the decedent immediately before his or her death. If more than one person is entitled to benefits as survivors of an insured decedent and the total of such benefits exceeds the basic benefit, then each such benefit shall be reduced to the proportion that each such benefit represents to the total benefit payable.

[Source 41 PNC § 757]

3. Example: The total benefits percentage for a surviving spouse with five (5) surviving children would equal one-hundred and thirty-five percent (135%). In such a case, the surviving spouse would receive 60/135, or 44.4% of the basic benefit, and each child would receive 15/135 or 11.1% of the basic benefit.

Edited Content for Manual Chunk: section 506-510.docx

PART V. HEARING AND APPEAL CONTINUATION

Section 506. Records and Findings of Fact

- The record in an appeal to the Board may consist of the following, if submitted:
 - All pleadings, motions, and interim rulings;
 - Evidence received or considered;
 - A statement of matters officially noticed;
 - Questions and offers of proof, objections, and rulings thereon;
 - Proposed findings and exceptions;
 - Any decision, opinion, or report by the officer presiding at the hearings;
 - All staff memoranda or data submitted to the officer presiding at the hearing or to members of the agency in connection with their consideration of the case.
- Oral proceedings in appeals to the Board shall be recorded, and any part thereof shall be transcribed upon request of any party at their expense. Findings of fact in appeals to the Board shall be based exclusively on the evidence and on matters officially noted.
- [Source 41 PNC § 711, § 712(d), & SSA By-Laws; 6 PNC]

Section 507. Rules of Evidence in Appeals

- The following procedures concerning evidence shall be observed in appeals to the Board:
 - (a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The Courts of Republic of Palau Rules of Evidence shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. The Board shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of justice may be served, evidence may be received in written form. All testimony of parties and witnesses must be made under oath or affirmation;
 - (b) Documentary evidence may be received in the form of copies of excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original;
 - (c) A party may conduct cross-examinations required for a full and true disclosure of the facts;
 - (d) Notice may be taken of judicially recognized technical or scientific facts within the Administration's or Board's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The Administration's or Board's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.
- [Source 41 PNC § 711, § 712(d), & SSA By-Laws; 6 PNC]

Section 508. Final Decisions and Orders

- A final decision, or order adverse to a party in an appeal to the Board, shall be in writing or stated in

the Board’s record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. A copy of the decision or order shall be delivered or mailed forthwith to each party and to his or her attorney of record.

- [Source 41 PNC § 711, § 712(d), & SSA By-Laws; 6 PNC]

Section 509. Ex Parte Consultations

- Unless required for the deposition of ex parte matters authorized by law, Board members assigned to render a decision or to make findings of fact and conclusions of law in an appeal to the Board shall not communicate, directly or indirectly, in connection with any issue of law, with any party or his or her representatives; except upon notice and opportunity for all parties to participate. Board members may: (1) communicate with other members of the Board; and (2) have the aid and advice of one or more personal assistants.

- [Source 41 PNC § 711, § 712(d), & SSA By-Laws; 6 PNC]

Section 510. Review of Board Final Decision or Order

- Any person, aggrieved by a final decision, order, or determination rendered by the Board after hearing may obtain a review of the decision in the Supreme Court of the Republic of Palau by filing with the Clerk of Courts, within sixty (60) days after receiving notice of the decision, a written petition praying that the decision be modified or set aside in whole or in part. A copy of the petition shall be served on the Board. The Board shall certify and file with the Clerk of Courts a copy of the record on which the order was based. The findings of the Board as to all material facts, if supported by competent material and substantial evidence, are final.

- [Source 41 PNC § 717]

Edited Content for Manual Chunk: section 707-711.docx

PART VII. DELINQUENCY, DEBT COLLECTION, PENALTIES, & INTEREST CONTROL

Section 707. Penalty Assessment

1. A penalty will be imposed on any employer who fails to file the Quarterly Report within the one-month filing period. Penalties commence from the first day late from the due date. The penalty amount will be either \$250 or 100% of the amount due, whichever is greater.
2. The assessment of penalties will continue each quarter the Quarterly Report remains outstanding, with a total penalty limit of \$2,000 for each offense.
3. A penalty of \$2,000 will be applicable for any employer who fails to report or remit contributions and/or knowingly makes a false statement or falsifies any records in an attempt to defraud or circumvent the SSA Law. This penalty applies for each such offense committed by the employer.

4. If an employer has filed the Quarterly Report on time, paid contributions, and subsequently reports an underpayment and files a supplementary report to correct the error, no penalty will be assessed; however, interest on the underpayment will be charged.

5. A request for waiver of penalties assessed or other considerations must be submitted in writing to the Administrator. The Administrator shall decide whether such request has merit. If the Administrator deems the request meritorious or if it provides mitigating circumstances, the request will be presented to the Board at their next regularly scheduled meeting for consideration. Waiver and/or changes to any penalties assessed will be made at the discretion of the Board.

[Source 41 PNC § 772 & SSA By-laws]

Section 708. Penalty Waiver

1. The employer must submit a written request to both the Social Security Administrator and the Board of Directors, requesting a penalty waiver. The written request should briefly describe any circumstances involving the employer or their business that have resulted in the assessment of penalties. The Administrator will complete a background check on the employer and make a written determination either approving or denying the penalty waiver.

2. Penalty waivers under the Social Security Administrator's authority:

- Consistent reporting and payment of contributions for the last 2 years;
- No default judgement or unpaid contributions for the last 2 years;
- No pending or outstanding audit of the employer at the time of the request;
- Consistent payment of delinquent contributions for the past 6 months under agreement.

3. Any request for penalty waivers outside of the Administrator's authority must be presented to the members of the Board for a decision.

4. Penalty assessment and waivers for accounts under agreement:

- An agreement for payment of delinquent account must be drafted by an SSA collection attorney (by request), reviewed by a supervisor, and approved by the SS Administrator.
- The account will be considered late and will continue to assess penalty on a monthly basis as set forth in the agreement.
- Any late filing as agreed by SSA under some form of agreement shall not be assessed a penalty if paid within due date; otherwise, a penalty is assessed.
- Penalty waiver is considered every 6 months based on positive account performance.
- The Administrator shall prepare a summary, which shall include his or her written determination, and present such summary to the members of the Board for their approval.
- If the Board approves the penalty waiver (in full or in part), the Administrator shall take the necessary steps to implement the penalty waiver. If the penalty waiver is denied, it will be put on the next Board meeting agenda for further and final discussion.

[Source 41 PNC § 772]

Section 709. Collection Report

1. A collection report shall be completed when interest and penalties are assessed. Upon payment of a delinquent report, a collection report shall be made in duplicate. One copy shall be provided for the employer, and the original copy shall be retained for the Social Security files.

[Source 41 PNC]

Section 710. Payment Agreements

1. The Administrator may enter into a Payment Agreement with any debtor of the Administration. Any such agreement will contain the following information:

- Name of Owner and Business;
- Employer Identification Numbers;
- Social Security Numbers;
- Principal, Interest, and Penalties;
- Approximate Quarters of Delinquency;
- Statement of Debt Liability Acknowledgment;
- Amounts to be Paid and frequency of payments;
- Results of Breach of Agreement;
- Debtor Signature;
- Administrator Signature;
- Any other information as may be required by the Administrator.

2. All employers are aware they have an obligation to collect and pay Social Security taxes to the Social Security Administration, therefore no debtor may enter into more than one payment plan in a 12-month period. Any additional debt/s incurred during this 12-month period must be paid off in full, including any penalties.

[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws]

Section 711. Bounced Checks

1. The Administration may accept business or personal checks for the payment of any sums owed. The Administration reserves the right to refuse any check from any person, business, or financial institution. Any person or entity that bounces a check to the Administration shall be assessed a returned check fee and/or interest. A bounced check will be held for one quarter before being considered delinquent. When dealing with a bounced check, the Administration shall retain the following information:

- Name of Person or Business;
- Date Check Issued;
- Amount of Check.

2. The Administration will not accept a check from a person or business that has an outstanding

bounced check until that amount has been paid in full. The Administration will not accept a check from a person or business that has bounced two (2) checks to the Administration.

[Source 41 PNC]

Edited Content for Manual Chunk: sections 206.5A–206.5B.docx

PART II. CONTRIBUTIONS (Third Chunk)

SUB-PART C: PARTNERSHIPS & CORPORATIONS

****Section 206.5 A. Partnerships****

At least one partner in a partnership or joint venture must be reported as the owner for reporting remuneration purposes, as outlined in Section 204. The remaining partner may be reported as an employee, an owner, or not reported, contingent upon the terms of the written partnership agreement.

****Section 206.5 B. Corporations****

(a) An officer of a corporation is considered an employee of the corporation, regardless of service performance, if the wages are received for holding corporate office. A director, however, is not considered an employee of the corporation.

(b) For corporations with at least one employee, only the remuneration of employees needs to be reported.

(c) Reporting: A corporation has one month from the end of each quarter to file their Social Security contributions report. Any reports received more than one month after the end of the quarter will be deemed delinquent.

****Note:**** Sections 206.5A and 206.5B were added.

Edited Content for Manual Chunk: sections 207–213.docx

PART II. CONTRIBUTIONS (Fourth Chunk)

SUB-PART D: EMPLOYEE CONTRIBUTIONS & STATUS

****Section 207. Employee Contributions****

All employees working within the Republic of Palau shall contribute to the Social Security Administration an amount equal to the percentage of their remuneration, as specified in 41 PNC § 743 (the current percentage for 2001 to present being six percent (6%)).

****Collection and Liability****

Employee contributions payable shall be collected by the employer of the employee by deducting the amount of the contributions from each payment of remuneration. Every employer required to deduct employee contributions is liable for their payment to the Board. The Board shall be indemnified (compensated for damage, loss, or injury suffered) from the Retirement Fund against any claim or demand by any person for the amount of any such payment. [41 PNC § 743]

****Example: Multiple Employers****

If an employee performs work for another employer during a quarter, the second employer may report and pay contributions for that employee. However, the first employer shall continue to be liable for reporting and paying the contributions of that employee.

****Sections 208 and 209 Consolidated into Section 203****

(No specific content provided)

****Section 210. Family Employment****

The existence of a family relationship does not preclude the possibility of an employee-employer relationship. The employee-employer relationship may be present under other sections of these rules and procedures, however, the employment must be documented and wages must be paid. [41 PNC § 702(a)(8), (11), & (13) & U.S. IRS]

****Sections 211 Consolidated with Section 203****

(No specific content provided)

****Section 212. Part-Time Employment****

Part-time employment is covered under 41 PNC unless it is not performed in the course of an

employer's trade or business and does not exceed employment in more than one week in each calendar month of each quarterly reporting period. Otherwise, all part-time, temporary, seasonal, or intermittent employment is covered and shall be reported under 41 PNC. [41 PNC § 702(a)(8), (11), & (13) & U.S. IRS]

****Section 213. Factors Determining Employee Working in the ROP****

An employee working within the Republic of Palau, as set forth in 41 PNC § 702(a)(13) and § 703, means that the employee or the business enterprise in which the employee works maintains a physical presence in the Republic of Palau. Physical presence in the Republic of Palau includes, but is not limited to:

- Operating or establishing an office, store, restaurant, hotel, shop, factory, workshop, plant, warehouse, subsidiary, branch, or other such facility;
- Hiring, appointing, designating, or sending a representative, distributor, employee, or agent who is present in the Republic of Palau for more than thirty (30) days in any calendar year transacting business on behalf of the business enterprise;
- Undertaking building, construction, or assembly projects;
- Importing items for resale;
- Paying taxes to the Republic of Palau;
- Hiring employees in the Republic of Palau or to work in the Republic of Palau;
- Obtaining national or state business licenses;
- Performing any other such act or series of acts in the Republic of Palau which are sufficient to subject the business enterprise to the personal jurisdiction of the Courts of the Republic of Palau; and
- Any other factor that is deemed to show employment within the Republic of Palau.

A determination made by the Administrator, based on one or more of the above-mentioned factors that an employee is working within the Republic of Palau, is rebuttable only by clear and convincing evidence. This burden of proof lies with a person appealing a determination made by the Administration. A written determination regarding such matter shall be made available upon written request to the Administrator. [41 PNC § 702(a)(8), (11), & (13) & U.S. IRS]

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PART II. CONTRIBUTIONS (Fifth Chunk)

SUB-PART E: EMPLOYER CONTRIBUTIONS

****Section 214. Employer Contributions****

All employers conducting business within the Republic of Palau are obligated to contribute to the Social Security Administration an amount equivalent to six percent (6%) of the remuneration paid to

their employees, or in the case of a self-employed individual who falls under 41 PNC § 741 (Self-Employed), the contribution is based on the deemed payment to themselves. This percentage applies from the fourth quarter of 2001 onwards.

If an employer does not have eligible employees but has annual gross revenues exceeding ten thousand dollars (\$10,000), they are required to report themselves at a rate of ten percent (10%) of their gross revenues from the preceding year.

****[41 PNC § 744]****

****Section 215. Employer Not Required to Pay****

Employers may be exempted from contributing to Social Security under the following circumstances:

- The business has no eligible employees and gross annual revenue is less than ten thousand dollars (\$10,000.00). However, the business owner/employer has the option to contribute to the Social Security System, provided that they report themselves based on their Gross Revenue Tax (GRT) or income per quarter.
- In cases of casual employment.
- When the employer's payments are covered by grants under a treaty with the National Government, explicitly exempting liability to a specified degree.
- Employers of Domestic Helpers (household helpers); in other words, non-business household/domestic employers are exempt from reporting themselves as self-employed.

****[41 PNC § 741 & 743]****

Edited Content for Manual Chunk: sections 216–218.docx

PART II. CONTRIBUTIONS CONT

SUB-PART F: RECORDS (first chunk)

****Section 216. Payroll Record Retention****

Any employer subject to the provisions of 41 PNC shall retain records related to Social Security payments, including contributions paid, payroll, and employee Social Security numbers for at least six (6) years. These records must be kept in English or Palauan and made available to the Administration upon written request.

- [Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws]

****Section 217. Audits****

Under the direction of the Administrator, the Administration may audit the records of any employer or self-employed person to verify their liability for contributions. These audits are conducted to determine the accuracy of Social Security Reports submitted and ensure that every eligible employee receives proper reporting and paid contributions for retirement, disability, or survivor benefits in case of death.

(1) ****Notice of Audit:**** When an audit notice is sent to an employer, they must comply with the request and make all business records available to the Administration within five (5) working days. If a notice goes unanswered, the Administration may either issue a subpoena for compliance or audit based on other records such as gross revenue tax. Records may be requested from the Division of Revenue and Tax, Labor, and Immigration, as well as the Office of the Attorney General and the Foreign Investment Board at the Administrator's discretion. Audit findings are based on the best available evidence.

(2) ****Audit Completion:**** Upon completion of any audit, the Administration grants an employer thirty (30) days to confirm or dispute audit findings. If an employer does not respond within thirty (30) days, the findings are automatically confirmed. If the audit indicates outstanding Social Security liabilities, the employer is notified accordingly and must follow the collections procedure.

(3) ****Audit Information Record Book:**** A record book containing each employer's name shall be maintained and kept current when any actions, audits, or other interactions occur with an employer. The date, purpose, and communication conveyed in each visit or phone conversation with an employer should be recorded in the record book.

- [Source 41 PNC § 801]

****Section 218. Employer Identification Numbers****

****Employer Identification Number:**** The Social Security Administrator, or his/her designee, shall assign an identification number to each employer.

(a) ****Palauan Citizens:**** Every business solely owned by Palauan citizens must complete the Employer Identification Number application and provide any required information, such as Corporate Charter, By-Laws, partnership agreement, joint venture agreement, or other necessary documents. Every corporation solely owned by Palauan citizens must also complete the application and provide the Corporate Charter, By-Laws, and any other required information.

(b) ****Foreign Businesses:**** Every business or corporation with foreign ownership must complete the Employer Identification Number application and provide any necessary information, including the Foreign Investment Approval Certificate, Corporate Charter, By-Laws, Articles of Corporation, partnership agreement, joint venture agreement, investor permit, and other required documents.

(c) ****Foreigners:**** Foreigners who are sole owners of professional businesses in the fields of medicine, law, or other exempt business types under Palau's foreign investment laws must complete the Employer Identification Number Application and provide any necessary information, such as

written authorization from the Director of the Bureau of Immigration or other authorized government representative.

- Existing Debt: Any employer or owner with an existing or past business that owes outstanding Social Security liabilities will not be eligible to obtain a new Employer Identification Number for any new business entity without first executing a payment agreement and making timely payments for at least six (6) months, paying all existing prior liabilities in lump sum, or as otherwise determined by the Administrator.

****New Employer Identification Numbers:**** New Employer Identification Numbers will be issued under the following circumstances:

- ****New Owner:**** When a business is transferred to another person, the prior Employer Identification Number will be withdrawn and a new number will be issued.

- ****Change in Status:**** When a business changes status, such as from "Sole Proprietorship" to "Corporation" or "Partnership," the prior Employer Identification Number will be withdrawn and a new number will be issued.

****Non-issuance of Employer Identification Numbers:**** New or renewed Employer Identification numbers will not be issued to employers with delinquent accounts unless the employer and the Administration have entered into an agreement resolving the delinquency, and the employer is current on all payments required under the agreement. Any non-issuance of new or renewed EIN numbers and cards are subject to approval by the Social Security Administrator.

****Issuing an Employer Identification Number Card:**** The Administration will establish a written policy for assessing an administrative fee to issue a new or renewed Employer Identification Card, including a fee for issuing a duplicate card.

****Renewal of Employer Identification Number Card:**** All employers as detailed in 1a, b, and c will be required to annually renew the Employer Identification Card prior to Dec, 31.

- ****Existing Debt:**** Any employer with an existing debt that is not currently under a payment plan will be required to first execute a payment agreement before issuance of a renewed Employer Identification Card.

- ****Non-filed Social Security Quarterly Tax Reports:**** Any employer with non-filed Social Security Quarterly Tax Reports will be required to update non-filed reports, including any payments required, prior to issuance of a renewed Employer Identification Card.

Exempt from EIN Renewal are National Government, National Government Agencies, and State Government.

- [Source 41 PNC § 711, § 712(d), § 724, §747 & SSA By-Laws]

Edited Content for Manual Chunk: sections 219–220.docx

PART II. CONTRIBUTIONS (sixth chunk)

Section 219. Social Security Cards and Numbers

****219.1 Assignment of Social Security Number and Card****

Each employee contributor shall be assigned a Social Security number and card bearing such number by the Social Security Administrator or his/her designee.

****219.1.1 Palauan Citizens****

Every person who is a Palauan citizen shall be required to present a birth certificate, passport, or other recognized form of identification when applying for a Social Security Number. The Administration may retain copies of the identification presented.

****219.1.2 Foreigners****

Every person who is not a Palauan citizen shall be required to present a valid provisional visa issued by the Bureau of Immigration, a passport with more than six (6) months before expiration remaining on it, and any other form of identification deemed appropriate when applying for a Social Security Number. The Administration shall retain copies of all identification presented. The Administration may only issue Social Security Numbers for the following provisional or permanent immigration visas holders:

- Dependent Visa
- Business Visa
- Government Employee Visa
- Investor Visa
- Foreign Government or International Organization Representative Visa
- Work Visa (for current, active businesses only)
- Resident Visa
- FSM/RMI/USA Visa

The Administration may not issue a Social Security Number for the following visa holders or persons without written authorization from the Director of the Bureau of Immigration or other authorized government representative:

- Student Visa
- Temporary Visa
- Tourist Visa
- Foreign Military Personnel
- Foreign Diplomats (or their families)

- Crews of Commercial Carriers

All other Social Security Number applicants not covered under the above-mentioned rules shall be considered on a case-by-case basis.

If a foreigner presents a provisional visa issued for an inactive or closed business, the Administration shall first verify if the business is active. If the business remains inactive or closed, the Administration shall refer the applicant to the Labor Office.

****219.2 Foreign Students****

Any foreign student from FSM, RMI, USA and other countries, studying at Palau Community College (PCC) and holding a Student Visa will be issued a Social Security Number marked "Not for Employment". This Social Security Number will allow the student to work at PCC but not outside PCC.

If and when a student wishes to seek employment outside of PCC, a work permit or work visa will need to be submitted for issuance of a new Social Security Number for employment purposes.

****219.3 Issuing Social Security Numbers for Purposes other than Employment****

The Administration shall establish a written policy for assessing an administrative fee to issue a Social Security Card, including a fee for issuing a duplicate card.

****219.4 Employer Retention Requirements****

Every employer shall be required to retain a copy of each employee's Social Security Card who is currently employed by the employer for reporting purposes under 41 PNC.

****219.5 Legal Name****

A person's legal name is used for Social Security purposes. This is the name the person uses for employment, school, and other purposes. It may be different than the name shown on his/her birth certificate, but should be same as that shown on his/her passport, driver's license, and employment or school records.

If a person uses a legal name that is different than the name shown on his/her birth certificate, other evidence of his/her legal name must be submitted. A passport, a court decree of name change, and a marriage license showing a married name are all examples of substantial evidence of a person's legal name. If none of those documents are available, other evidence may be used.

To correct or change the legal name shown on Social Security records, the person completes a "Request for Change in Social Security Records" and submits evidence of his/her legal name to support the change, such as a passport, a court decree of name change, a marriage license showing a married name, or other substantial evidence.

If the evidence shows multiple names have been used, the legal name shown on the most recent of the following; a passport, a court decree of name change, or a marriage license showing a married name, shall be used as the legal name for Social Security purposes.

If none of those documents are available, the person shall submit other substantial evidence showing his/her use of the requested legal name, such as a birth certificate, driver's license issued by the Republic of Palau, other government records, employment records, school records, court records, affidavits, and other available documents, along with a written explanation of any discrepancies. Under these circumstances, the legal name most consistent with the current usage shall be used as the legal name for Social Security purposes.

****219.6 [Source 41 PNC § 747]****

****Section 220. Social Security Cards and Numbers – Non-Issuance****

Any Employer or Owner with an existing or past business that owes Social Security Administration contributions shall not be eligible to obtain a Social Security Number for any new employees without first executing a payment agreement with Social Security or remitting full payment of amount owed. Any applications are to be referred to Social Security Administrator for consideration.

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PART III. BENEFITS (first chunk)

SUB-PART A: FORMULA & BASIC BENEFITS

****Section 301. Basic Benefit Formula****

The Basic Benefit is calculated as one-twelfth (1/12) of the total of:

1. Twenty-seven percent (27%) of the first eleven thousand dollars (\$11,000.00) of cumulative covered earnings;
2. Two and nine tenths percent (2.90%) of cumulative covered earnings in excess of eleven thousand dollars (\$11,000.00) but not in excess of thirty-three thousand dollars (\$33,000.00);
3. One and a half percent (1.50%) of cumulative covered earnings in excess of forty-four thousand dollars (\$44,000.00);
4. Three quarters of one percent (0.75 %) of cumulative covered earnings in excess of five hundred thousand dollars (\$500,000.00).

[Source 41 PNC § 751, as amended by RPPL No. 9-12, Sec. 3]

****Section 302. Cumulative Covered Earnings****

Cumulative Covered Earnings refers to remuneration on which employee contributions have been made. Employees can and shall only receive benefits on covered earnings.

[Source 41 PNC § 751]

****Section 303. Types of Benefits****

The types of benefits under Social Security are limited to the following, unless otherwise provided by law:

1. Old-age insurance benefits (41 § 753)
2. Disability insurance benefits (41 § 754)
3. Surviving spouse insurance benefits (41 § 755)
4. Surviving child insurance benefits (41 § 756)
5. Lump sum insurance benefit (41 § 758)

[41 PNC § 752(b) was repealed by RPPL No. 9-12, Sec. 4]

[RPPL No. 9-11 authorized receiving more than one benefits; RPPL No. 9-12, Section 7 repealed 41 PNC § 752 (b) which prohibited a person from receiving more than one type of benefits]

Edited Content for Manual Chunk: sections 305–309.docx

PART III. BENEFITS (third chunk)

SUB-PART C: DISABILITY INSURANCE

****Section 305. Disability Insurance****

A disabled individual, who was fully and currently insured or permanently insured at the onset of the disability, is entitled to a monthly insurance benefit. The benefit begins in the month the person becomes eligible and ends with the month before the month of their death or recovery from the disability, whichever occurs first, subject to the earnings test in §330.

****Subject to Subsections (a) and (b) of Section 754, the Monthly Disability Insurance Benefit****

The monthly disability insurance benefit is the basic benefit with a minimum monthly benefit of \$148.00, effective October 1, 2013. The basic benefit shortfall will apply as set forth in Section 304 (c).

****Subject to Section 754(b), Reduction of Disability Insurance Benefit****

If a person is receiving a periodic workman's compensation benefit, the disability insurance benefit shall be reduced in any month by the amount in which the total of the workman's compensation benefit plus the basic benefit exceeds 80% of one-twelfth (1/12) of the highest annual remuneration on which contributions were made in the period consisting of the year in which the disability occurred and the preceding five (5) years.

[41 PNC § 754, as amended by RPPL No. 9-11, Sec. 5]

****Section 306. Disability Defined****

**** (a) Definition of Disability ****

The term "disability" refers to the following:

- Inability to engage in any substantial gainful employment or activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted, or can be expected to last for a continuous period of not less than twelve (12) months.

**** (b) Disabled Children ****

A child under the age of eighteen (18), or under the age of twenty-two (22) if a bona fide student, will be considered disabled if they have a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations or can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

**** Substantial Gainful Activity ****

- Substantial work activity is work activity that involves doing significant physical or mental activities. Work may be substantial even if it is done on a part-time basis, for fewer hours, less responsibility, or for less compensation.
- Gainful work activity that is for pay, compensation, wages, profit, or some other gain. Work may be considered gainful if it is the kind of work usually done for pay or profit, whether or not a profit is realized.
- The Administration shall not consider personal maintenance, household tasks or chores, hobbies, therapy, school attendance, club activities, or social programs to be substantial gainful employment.

[Source 41 PNC § 711 and § 712(d)]

****Section 307. Medically Determinable Impairment****

To receive disability benefits, a person must have a physical or mental medically determinable impairment. Each person who files a claim for disability is responsible for providing medical evidence from acceptable medical sources showing that they have determinable impairment(s) and the severity of the impairment(s). A physical or mental medically determinable impairment is an impairment that

results from an anatomical, physiological, or psychological abnormality which can be shown by medically acceptable clinical and laboratory techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, diagnosis, tests, findings, laboratory work. Statements made by an individual claiming the disability may be offered as support of a medically determinable impairment but shall not be conclusive by themselves.

The Administration shall use a listing(s) of impairments, for each major body system, that are considered severe enough to prevent a person from doing any gainful activity. Most of the listed impairments are considered permanent or expected to result in death, or a specific statement of duration is made. These listed impairments shall not require proof that the impairment has or is expected to last for a continuous period of twelve (12) months or more. For all other non-listed impairments, the claimant shall provide proof from an acceptable medical source that the impairment has or is expected to last for a continuous period of twelve (12) months or more.

[Source 41 PNC § 711 and § 712(d) & U.S. SSA]

****Section 308. Acceptable Medical Sources for Evidence****

Acceptable medical sources include but are not limited to the following:

- Licensed physicians (medical or osteopathic doctors);
- Licensed or certified psychologists;
- Licensed optometrists;
- Licensed podiatrists;
- Qualified speech-language pathologists;
- Treating sources such as hospitals or health facilities; or
- Other sources such as schools, caregivers, social workers, naturopaths, chiropractors, and audiologists.

[Source 41 PNC § 711 and § 712(d) & U.S. SSA]

****Section 309. Disability Determination****

The Administration shall make a determination of disability based on medical evidence provided by the claimant through a process known as “sequential evaluation”.

For adults, the procedure requires sequential review of the claimant’s current work activity, the severity of his or her impairment(s), the claimant’s residual functional capacity, his or her past work experience, and his or her age, education, and work experience.

For children, the process requires sequential review of the child’s current work activity (if any), the severity of his or her impairment(s), and an assessment of whether his or her impairment(s) result in marked and severe functional limitations.

If an adult or child is found to be disabled or not disabled at any point in the evaluation, the evaluation

shall immediately cease.

[Source 41 PNC § 711 and § 712(d) & U.S. SSA]

Edited Content for Manual Chunk: sections 310–317.docx

PART III. BENEFITS (Third Chunk)

SUB-PART C: DISABILITY INSURANCE (Continuation)

Section 310. Review of Disability and Examination

1. Continuing disability reviews will be conducted to determine if the disability persists. The frequency of these reviews depends on the nature and severity of the claimant's medical condition and whether it is likely to improve.
2. If improvement is expected, the first review will take place 12 months after the onset of disability.
3. If improvement is possible but cannot be predicted, the claimant's medical condition will be reviewed once every three years or sooner if specified by the Medical Examiner.
4. If improvement is not expected, the claimant's medical condition will be reviewed once every seven years or sooner if specified by the Medical Examiner.
5. The Administrator may require any person or child claiming disability benefits to undergo an examination by a physician or physicians designated by the Administration. When the Administrator requires this, the cost of such examination shall be paid by the claimant. [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 311. Application for Disability Benefits

1. To become eligible for disability benefits, a person must file an application no sooner than sixty (60) days from the date they claim such disability began. Applications submitted within sixty (60) days of the commencement of the disability will not be considered. This waiting period shall not affect the claimant's right to receive benefits retroactive to the date of the onset of the disability or based on the month after the termination date of employment, whichever occurs later.
2. Any person applying for disability benefits must provide:
 - a. A birth certificate or other proof of age;
 - b. A certification by their employer as to the date they stopped working due to the disability; and
 - c. All medical records pertaining to their claimed disability.

Applications must be made within 12 months of the date of the onset of the disability or the month after the termination date of employment, whichever occurs later. [Source 41 PNC § 711, § 712(d), & SSA By-Laws]

Section 312. Application Approval

1. Any complete application for disability benefits containing all the necessary supporting documents as required by law or these policies shall be approved or disapproved not more than sixty (60) days after the date of the application. The sixty (60) day period may be extended for disability claims requiring medical evaluation or testing at the discretion of the Administrator. [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 313. Exceptional Circumstances

1. The Administrator may waive the waiting period for application of disability benefits upon making a written determination of special circumstances and urgency. The exception may also include a finding of "presumption of disability". An applicant may be found "presumptively disabled" and receive cash benefits for up to six (6) months while the formal disability determination is made. The presumptive payment is designed to allow a needy individual to meet their basic living expenses during the time it takes to process their application. If it is found that the individual is not disabled, they are not required to refund the payments. [Source 41 PNC § 711 and § 712(d) & U.S. SSA]

Section 314. Duration of Benefits

1. Disability benefits shall be paid up to and including the month immediately preceding the month the person receiving the benefits resumes employment or until it is determined, by the Administrator, based on one or more medical examinations by a designated physician or physicians, that such person is capable and fit to resume substantial gainful employment, regardless of whether such employment is actually available to the person. [Source 41 PNC § 754]
2. The Administration may, in its discretion, re-determine whether a person receiving disability benefits has resumed or is capable and fit to resume substantial gainful employment if there is a report of earnings for that beneficiary.

Section 315. Reapplication

1. Once a person who has received disability benefits returns to work, they must reapply for disability benefits should they once again become disabled. There shall be no waiting period for a person applying for disability benefits based on a disability for which such person has previously received benefits, provided such prior benefits were received within the three (3) year period preceding the application. [Source 41 PNC § 754]

Section 316. Death of Claimant

1. Any retroactive disability benefit payment approved following the death of a claimant shall be payable to the deceased eligible survivors. The benefit thus payable shall be computed to commence with the month of the onset of the disability and terminate with the month preceding the person's death. [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 317. Disability Fraud

1. Any claimant or guardian of a claimant found by the Administration to have completed a claim for disability benefits knowing such claim to be false shall be reported to the Office of the Attorney General for prosecution under 17 PNC [attempted] § 1903 or any other offense deemed appropriate. [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Edited Content for Manual Chunk: sections 318–322.docx

PART III. BENEFITS (Fourth Chunk)

SUB-PART D: SURVIVING SPOUSE & CHILD INSURANCE BENEFITS

Section 318. Surviving Spouse Insurance Benefit

1. In accordance with 41 PNC § 757, the surviving spouse of a person who has died while fully or currently insured is entitled to a monthly survivor's insurance benefit, commencing in the month of entitlement and ending in the month preceding the month of the surviving spouse's death. A widow or widower aged 60 years or above may remarry and continue receiving their monthly benefit amount, but they cannot receive more than one surviving spouse's insurance benefit [41 PNC § 755(a), as amended by RPPL No. 9-12, Sec.6].

2. The monthly benefit amount is 60% of the basic benefit inclusive of any applicable basic benefit shortfall for the deceased wage earner at the time of their death if the surviving spouse is under 60 years old and unmarried [41 PNC § 755(b), as amended by RPPL No. 9-12, Sec.6].

3. If the surviving spouse was born before January 1, 1954, they are eligible to receive both the surviving spouse insurance benefit and another benefit without reduction. For those born on or after January 1, 1954, the surviving spouse insurance benefit will be 60% of the full amount if they are eligible for multiple benefits. However, if the surviving spouse became eligible prior to August 2, 2007, they will receive the full amount [41 PNC § 755(c), as amended by RPPL No. 9-11, Sec. 2].

4. A special earnings test applies for surviving spouse benefits: a person under 60 who earns more than \$3,000 in any quarter will have their benefit reduced by \$1 for every \$3 earned above that amount in the following quarters [41 PNC § 755(d), as amended by RPPL No. 9-12, Sec. 6].

5. If a surviving spouse beneficiary is eligible for another benefit, they have the option to receive both benefits monthly or opt for a lump sum payment for one while continuing to receive the other on a monthly basis [41 PNC § 755(e), as amended by RPPL No. 9-11, Sec. 2].

Section 319. Application for Surviving Spouse Benefits

1. A surviving spouse may file for benefits within at least five years following the death of their insured husband or wife. Along with the completed application, they must submit:

- The death certificate of the insured spouse;
- Birth certificate or other official identification documents showing the date of birth of the surviving spouse claimant;
- A marriage certificate confirming the marriage between the surviving spouse and the deceased insured person;
- If married under custom, evidence demonstrating that:
 - The surviving spouse is at least 18 years old;
 - They have lived together for three or more years;
 - They have performed customary obligations as husband and wife;
 - They are recognized as husband and wife in the community by at least three close family members and relatives (at least one from the husband's family and one from the wife's family);
- A court certification confirming a marital relationship between the surviving spouse and the decedent; and
- A sworn affidavit by the surviving spouse that their marital relationship with the decedent had not been terminated by divorce or annulment prior to the death of the decedent.

The Administrator will consider all available evidence in its determination. A surviving spouse may not file an application for benefits and elect to have the benefit suspended until a later date [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws].

Section 320. More Than One Claimant

1. The Administration will only recognize one surviving spouse, and only one surviving spouse shall receive surviving spouse benefits under 41 PNC. In the event that more than one surviving spouse claims such benefits, the Administration will hold the benefits until a determination is made. The survivor spouse benefits will be awarded to the surviving spouse whose un-terminated marriage to the decedent predates that of any other surviving spouse. Until the Administrator makes such determination, the survivor spouse benefits will be held in a separate account [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws].

Section 321. Surviving Child Insurance Benefit

1. A surviving child who was dependent on the person who died fully or currently insured is entitled to a monthly survivor's insurance benefit, starting in the month of entitlement and ending when the child:

- Attains the age of 18 years;
- Reaches the age of 22 while being a bona fide student;
- Marries;
- Is adopted; or
- Becomes disabled before the age of 22, in which case the benefit is payable during the disability [41 PNC § 756].

2. The monthly amount of the benefit is 15% of the basic benefit applicable to the deceased at the time of their death [Source 41 PNC § 758].

Section 322. Application for Surviving Child Benefits

1. An application for benefits may be made at any time after the death of the insured person who the applicant was dependent on. Each such application must include copies of:
- The death certificate of the deceased insured person;
 - The birth certificate of the surviving child applicant;
 - Proof of adoption by the decedent if the applicant is not the natural child of the decedent;
 - Proof of bona fide student status or disabled status, as applicable;
 - Proof of guardianship if the applicant is living with someone other than the surviving spouse of the decedent; and
 - Any additional documents deemed necessary and appropriate by the Administrator [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws].
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PART III. BENEFITS (Fifth Chunk)

SUB-PART E: OTHER BENEFIT PROVISIONS

****Section 326. Lump Sum Benefits****

If an employee contributor dies and all survivor insurance benefits with respect to them have been terminated, a lump sum benefit equal to six percent (6%) of their cumulative covered earnings, less the amount of benefits actually received by the employee contributor, if any, shall be paid. This payment can go to:

1. The spouse; or
2. If there is no surviving spouse, to the children, or to any guardian or trustee for the children, in equal shares; or
3. If there is no surviving spouse or child, to the parents in equal shares; or
4. If there is no surviving spouse, child, or parent, to the duly appointed legal representative of the deceased; or
5. If none of the preceding paragraphs apply, to the person entitled to it under the laws and customs of the last domicile of the deceased. [41 PNC § 758]

In case unpaid employer contributions are deposited to the Social Security Fund after a lump sum payment has been made, these funds are no longer available for future claim as the Lump Sum benefit has been duly terminated.

****Section 327. Over and Under Payment****

Any over or under payment of benefits shall be deducted from or added to any subsequent payment of benefit to or with respect to the payee, and in any event it shall, if necessary, be deducted from or

added, partially or in-full, to any subsequent payment of a lump sum benefit. The Administrator shall not make any adjustment when determined that the adjustment would be made against equity and good conscience. [41 PNC § 759]

****Section 328. Retroactive Payment****

In the event that a person is eligible for benefits from the System but does not apply for those benefits or otherwise inform the Administrator that they are eligible for benefits, the maximum period for which benefits shall be paid retroactively preceding the date of application for benefits shall be twelve (12) months. [41 PNC § 808]

"Inform the Administrator" and "Date of Application" is defined as the date whereby all documentation i.e., application form and supporting evidence, for a benefit claim has been received by Social Security Administration and is complete and correct. [41 PNC § 711, § 712(d), § 763, & SSA By-Laws]

****Section 329. Payment to Non-citizens****

(a) Overseas: No more than six (6) months of benefits payments shall be paid to any beneficiary who is not a citizen or national of the Republic of Palau while the beneficiary is residing outside of the Republic unless modified by a totalization or bilateral agreement.

(b) Residing in ROP: Any beneficiary who is not a citizen or national of the Republic of Palau that is permanently residing in the Republic of Palau shall be eligible to receive full benefits. A person who is not a citizen or national of the Republic of Palau shall provide to the Administrator the following proof of permanent residency:

- Physical Location of Residence;
- Copy of Immigration Visa *, if applicable;
- Post Office Box;
- Telephone Number;
- Cell Phone Number;
- Email Address;
- Emergency Contact Person; and
- Any other evidence demonstrating proof of permanent residency.

* Immigration Visa may be a work permit for private sector and government employment, a dependent permit, a resident permit, a missionary permit, an investor permit or any other document approved by Department of Immigration.

(c) At any time, the Administrator may investigate the accuracy of any information provided and the legitimacy of the claim of permanent residency. The Administrator, after review, may determine that a person is not, in fact, residing in the Republic of Palau.

1. In the application process, if the Administrator determines that a non-citizen claimant who claims to be residing in the Republic but is not, in fact, residing in the Republic, the Administrator shall pay no

more than six (6) months of benefits payments; or

2. If the Administrator determines that a non-citizen receiving benefits, who claims to be residing in the Republic but is not, in fact, residing in the Republic, the Administrator shall immediately cease all disbursements of benefits. The Administrator shall notify the non-citizen of the determination and shall request that all benefits received after six (6) months shall be returned to the Administrator, with interest. The Administrator may file a civil proceeding to recover these benefits. The Administrator shall also report such non-citizen to the Bureau of Immigration and may refer the case to the Office of the Attorney General for criminal prosecution under 17 PNC [cheating, larceny, etc.]. [41 PNC § 760]

****Section 330. Earnings Test****

The “earnings test” means a test to determine whether the person who is receiving the benefit is retired or otherwise dependent on the Social Security benefit. The maximum amount of remuneration that a person may earn and still remain entitled to a full benefit is three thousand dollars (\$3,000.00) during any quarter, except as provided in subsection (c) of Section 761.

The person who is receiving retirement benefits shall have his or her retirement benefit reduced by one dollar (\$1) for each three dollars (\$3) of wages earned during a quarter in excess of three thousand dollars (\$3,000.00). The reduction shall be applied in the quarters following the quarter in which the wages were earned.

A person who became eligible to receive the surviving spouse benefit after December 31, 2013 shall have his or her surviving spouse benefit reduced by one dollar (\$1) for every three dollars (\$3) of wages earned in a quarter in excess of three thousand dollars (\$3,000.00), unless the surviving spouse beneficiary was eligible for the surviving spouse benefit under Section 755 prior to August 2, 2007. The reduction will be applied in the quarters immediately following the quarter in which the wages were earned.

A surviving spouse beneficiary qualifying under subsection (c)(2) shall receive such benefit at the level in existence immediately prior to August 2, 2007, unless such beneficiary received an increase in his or her surviving spouse benefit as a result of the enactment of RPPL No. 7-32.

The earnings test is applied as follows:

1. A benefit shall be reduced by one dollar (\$1.00) for each three dollars (\$3.00) earned in excess of three thousand eight hundred dollars (\$3,000.00) during any quarter. The reduction shall be applied in the quarter following the quarter in which the wages were earned.
2. Earnings from quarters prior to the first quarter the person who is receiving the benefit is retired or otherwise dependent on the Social Security benefit shall not be used to reduce benefits.
3. During the first quarter a person is retired or otherwise dependent on the Social Security benefit, earnings prior to the termination date of employment shall not be used to reduce benefits during any month after the month of the termination date.

For example, if the person’s employment ended on February 15, the Social Security benefits beginning in March would not be reduced based on earnings on or prior to February 15. [41 PNC §761, as

amended by RPPL No. 9-12, Sec. 8]

(d) A surviving spouse beneficiary qualifying under subsection (c)(2) shall receive such benefit at the level in existence immediately prior to August 2, 2007, unless such beneficiary received an increase in his or her surviving spouse benefit as a result of the enactment of RPPL No. 7-32. [41 PNC §761, as amended by RPPL No. 9-11, Sec. 3]

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PART IV. PROOF OF ENTITLEMENT AND EVIDENCE

Section 401. Evidence of Entitlement

* The Administrator may demand evidence from a person claiming or receiving benefits under 41 PNC, demonstrating their entitlement to those benefits. Failure to produce such evidence within a reasonable timeframe may result in the suspension of benefit payments until the necessary evidence is provided. In cases involving minors (individuals under the age of eighteen (18) years), the requirement for evidence may be directed towards the parent or guardian of the minor.

* [Source 41 PNC § 763]

Section 402. Date of Birth

* The Administrator will determine a claimant's date of birth based on all available evidence presented or obtained. For purposes related to eligibility, record-keeping, and other matters, the Administrator may consider the credibility of various documents in descending order to establish the date of birth:

- ☐+ Birth certificate of the claimant issued close to the listed date of birth;
- ☐+ Passport;
- ☐+ Marriage records;
- ☐+ The birth certificate of a person's child showing the age of the person;
- ☐+ Voting records;
- ☐+ Church records;
- ☐+ Census records;
- ☐+ Insurance records;
- ☐+ Employment records;
- ☐+ Government records;
- ☐+ Birth certificates of the claimant not issued close to the listed date of birth; and
- ☐+ Any other evidence deemed probative by the Administrator.

* Records evidencing the date of birth of a claimant produced close in time to such birth date will be given greater weight than records later produced or amended, particularly records produced or amended close to the retirement date of any claimant. Testimony or affidavits of persons with relevant knowledge regarding the claimant's age may also be taken into consideration by the Administrator.

* [Source 41 PNC § 711, § 712(d), § 763, & SSA By-Laws]

* Any change to a date of birth that would result in an earlier claim on a retirement benefit or a retroactive payment is not allowed if the change was made within 12 months prior to application for benefits.

Section 403. Date of Death

* A death certificate issued in the Republic of Palau or another recognized jurisdiction will be sufficient proof of the date of death of any person when there is a physical body.

* When there is no physical body, a person shall be presumed dead (death in absentia) upon:

☐+ A party petitioning a Court to issue a determination of death or recognize an issued certificate of death;

☐+ After five (5) years, the Administrator or Board may make a determination that a person is presumed dead; or

☐+ A death certificate issued by a recognized medical professional in conjunction with a waiver of liability for the payment of benefits.

* Example: A person presumed to have drowned and died when their boat went down in a storm. A body has not been recovered; however, the family presumes the person to be dead. The family may petition the Court to issue a Certificate of Death even though there is no physical body to bury. The family may then present the court-issued Certificate of Death to the Administration as proof of date of death.

* [Source 41 PNC § 711, § 712(d), § 763, & SSA By-Laws]

Section 404. Guardianship

* Unless other evidentiary documents are presented, the Administration will presume that the birth parents of a child or impaired adult are the legal guardians. Evidentiary documents proving or disproving guardianship may include:

☐+ A final court order, including a custody determination or adoption papers, from any recognized jurisdiction naming a legal guardian;

☐+ A valid affidavit signed by one or both of the birth parents relinquishing guardianship to another party;

☐+ Documents showing dependency such as bills for necessities including food, shelter, school, etc.;

☐+ Statements made by the child or impaired adult at issue; and

☐+ If the above evidence is unavailable, any other evidentiary proof deemed appropriate by the Administrator.

* A birth parent who has relinquished their rights as guardian shall provide adequate written documents reinstating those rights. Any dispute of guardianship by two or more parties will result in the Administration holding any benefits in trust for the child or impaired adult until the issuance of a judicial order or agreement between the parties regarding the guardianship at issue.

* Benefits Held in Trust: Any benefits issued by the Administration for a child or impaired adult to a legal guardian shall be held in trust for that child or impaired adult by the guardian. The guardian shall act as a trustee of the benefits and be held to all the duties of a fiduciary. The guardian shall not use any benefits for a child or impaired adult for their personal use.

* [Source 41 PNC § 711, § 712(d), § 763, & SSA By-Laws]

Section 405. Competency

- * There are instances in which an employee of the Administration may have to determine whether a person or beneficiary is competent to make decisions or execute agreements or other legal matters.
- * If the matter involves the execution of an agreement, contract, affidavit, or other document, to prove competency, a person must be able to: (1) understand the document; and (2) execute the document or have someone execute the document on their behalf.
- * If the matter involves an administrative hearing or any judicial proceeding, to prove competency, a person must be able to: (1) understand the proceeding; and (2) rationally deal with persons involved in the proceeding.
- * At no time can force be used (for example: forced signatures on documents, the use of intimidation or fear, or coercion to testify, etc.).
- * The Administration reserves the right to request a judicial determination where there are valid concerns that a fraudulent application is being made on behalf of a child or impaired adult and competency is in doubt or where an impaired adult is making an application under duress.
- * [Source 41 PNC & SSA By-Laws]

Section 406. Other Judicial Matters

- * The Administration may require a copy of an original judicial order as proof for the following matters:
 - ☐+ Name Change;
 - ☐+ Marriage;
 - ☐+ Divorce;
 - ☐+ Adoption;
 - ☐+ Estate;
 - ☐+ Liquidation;
 - ☐+ Criminal or Civil Suit; and
 - ☐+ Any other judicial order deemed appropriate by the Administrator.
- * Any party wishing to overturn or challenge an existing and valid order or decree issued by a duly recognized Court which affects any right or benefit under 41 PNC must seek judicial action regarding the existing order or decree.
- * [Source 41 PNC § 711, § 712(d), § 763, & SSA By-Laws]

Section 407. Dissolution or Change in Ownership of Business

- * Any business owner(s) subject to 41 PNC shall be required to promptly notify the Administration in writing when such business ceases to operate or when there is any change in ownership of such business. Changes in ownership shall include changes in ownership interests and changes in the number of owners.
 - * [Source 41 PNC § 711, § 712(d), § 763, & SSA By-Laws]
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PART V. HEARING AND APPEAL

Section 501. Matters for Determination

The Board and the Administrator may make determinations regarding various Social Security matters, including but not limited to:

- Any right, benefit, or obligation under 41 PNC or these policies and procedures [41 PNC § 716]
- Entitlement or continuing entitlement to benefits
- Re-entitlement to benefits
- The amount of any benefits
- The application of the earnings test to benefits
- The establishment or termination of a period of disability
- The payee(s) of survivor's insurance benefits, including lump sum benefits
- Any overpayment or underpayment of benefits
- Suspension of benefits pending an investigation and determination of any factual issue relating to the entitlement of the person concerned to receive such benefits, including investigations into the cessation of a disability
- Withholding less than the full amount of a monthly benefit to recover an overpayment
- A determination of outstanding Social Security liabilities
- Date of birth, date of death, or guardianship determination [41 PNC § 716]

Section 502. Determinations

A determination is a decision by the Board or Administrator regarding a person's entitlement or continuing entitlement to benefits or any other matter concerning a right conferred under 41 PNC or these policies and procedures. All determinations shall be promptly made in writing and either personally delivered or mailed to the affected person at their last known address. A determination is binding unless the person concerned requests a reconsideration of the determination within thirty (30) days of receipt of the decision [41 PNC § 716]

Section 503. Notice

- Any determination made by the Board or Administrator shall be either personally delivered or mailed to affected persons. A hand-delivered determination shall be deemed received upon delivery. A mailed determination mailed to an address in the Republic of Palau shall be deemed received by the addressee three (3) days from the postmark date. A determination mailed to an address outside the Republic of Palau shall be deemed received by the addressee ten (10) days from the postmark date [41 PNC § 711, § 712(d), & SSA By-Laws]

Section 504. Reconsideration

- Any person aggrieved by a determination of the Administrator involving any right, benefit, or obligation of that person under 41 PNC or these by-laws may ask for a reconsideration of that decision within thirty (30) days of receipt of the Administrator's decision. The request should include reasons or additional documentary evidence which would support a reversal of the original decision [41 PNC § 716]

- The reconsideration process shall consist of a case review by the Administrator, where all parties to the reconsideration shall be given the opportunity to submit additional evidence by such deadline as the Administrator shall set in each case. The Administrator shall issue a written decision upholding, amending, or reversing the initial determination [41 PNC § 716]

- Failure to adhere to this determination and reconsideration procedure or failure to file a request within the stated time period shall result in the denial of the reconsideration and the loss of the right to further appeal the decision.

Section 505. Appeal Hearing

- A reconsideration by the Administrator upholding the initial determination shall be binding unless appealed to the Board within thirty (30) days of receipt of the decision [41 PNC § 716]

- An appeal hereunder shall be made in writing and shall include any additional documentary evidence or arguments that the appealing party wishes the Board to consider. The Board shall review and consider the entire record of the matter and render its written decision on the appeal within forty-five (45) days of the date of the filing of the appeal [41 PNC § 716]

- A party to an appeal is entitled to be represented by an attorney or any other person so designated by the party.

- When a party appeals or requests reconsideration of a determination made by the Board, the party shall be afforded an opportunity for hearing after reasonable notice. The notice shall include:

- A statement of the time, place, and nature of the hearing;

- A statement of the legal authority (41 PNC) and jurisdiction (ROP Constitution, 41 PNC, 6 PNC) under which the hearing is to be held;

- A reference to the particular sections of the statutes, by-laws, and rules involved;

- A short and plain statement of the matters asserted; and

- The names and addresses of all parties and other persons to whom notice is being given. [41 PNC § 716]

- Reasonable opportunity shall be afforded all parties in an appeal to the Board to respond and present evidence and argument on all issues involved. Unless otherwise prohibited, informal disposition may be made of any contested determination. Failure to adhere to this claims appeal procedure or failure to file a request within the stated time period shall result in the denial of the appeal and the loss of the right to further appeal the decision [41 PNC § 716]

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PART VI: REPORTING & PAYMENT

Section 601. Reports and Payment of Contributions

1. Each employer is legally obligated (41 PNC) to submit reports to the Social Security Administration and pay all due contributions at the end of each quarter using an official form provided by the Administration. The Administration does not have a duty to remind employers of this responsibility. Employers are expected to be aware of their legal responsibilities when operating a business within

the Republic of Palau. Failure to report or pay contributions cannot be justified by ignorance (41 PNC § 745).

2. The official report forms will be provided free of charge by the Administration to each employer. Employers must provide the following additional information on their reports:

- Employer Identification Number (assigned under 41 PNC § 747)
- Employee Contributor Social Security Number (assigned under 41 PNC § 747)
- Home, work, and cell phone numbers
- Email address (if any)
- Business and residential post office box

3. The Administration assumes that all reports submitted by employers are completed in good faith based on truthful, diligent, and accurate records of the business. All reports must be signed under penalty of perjury and may be subject to criminal prosecution by the Office of the Attorney General under 17 PNC § 2601 if errors or mistakes are found (41 PNC § 745).

4. An administrative fee will be charged for each error submitted on reports. Knowingly submitting erroneous information may result in reporting to the Office of the Attorney General for prosecution under 17 PNC § 2601 or other appropriate offenses (41 PNC § 745).

Section 602. Quarterly Tax Reports

1. All Social Security Quarterly Tax Reports must be submitted to the Administration along with full payment. Quarterly Tax Report forms are available at the Administration free of charge. Reports and payments must be submitted within a month following the end of each quarter, with reports indicating the payment date, receipt number, and amount paid (41 PNC § 745).

2. Upon payment, the first copy of the report should be submitted to the Administration, while the employer retains the second copy. The report must show:

- Complete name of business or owner (in case of domestic helper)
- Employer number followed by the Subsidiary Code (if applicable)
- Complete address of business or owner
- Payroll ending date
- Due date
- Complete name, Social Security number, total gross wages, taxable wages, and twelve percent (12%) tax for each employee
- The totaled wages and tax at the bottom of the page
- Signature of business or owner with the date of such signature

3. The due dates for Quarterly Tax Reports are as follows:

- March 31st Report due on April 30th
- June 30th Report due on July 31st
- September 30th Report due on October 31st
- December 31st Report due on January 31st (41 PNC § 745)

Section 603. Refunds

1. Refund: When an employee contributes more than the maximum remuneration of six thousand dollars (\$6,000) from October 1, 2015, and will increase to eight thousand dollars (\$8,000) on October 1, 2017 (whether from one or more employers), and their employee contributions are withheld and paid to the Administration, the excess employee contributions during the four quarters ending on December 31st will be refunded by the Administration to the employee within ninety (90) days after that date. However, no refund shall be made for an amount of less than five dollars (\$5.00). No refund shall be made to any employer on any amount of excess employer contributions paid by them, other than to correct an error. No refund shall be issued to any employee who owes outstanding employer or employee Social Security debt; instead, the refund shall be used to off-set any outstanding Social Security debt (Board Resolution 2007).

Note: On October 1, 2020, there will no longer be a maximum amount of remuneration.

(a) Self Employed: Each employer that is required to report themselves at twice the wages of their highest paid employee, subject to the quarterly maximum; if the employer is reported as an employee of one or more businesses for the same quarter, the employer shall receive a six percent (6%) refund for those earnings in excess of the maximum taxable wage.

(b) Palauan Citizen: A Palauan citizen who is an employee contributing on total remuneration in excess of the maximum remuneration of six thousand dollars (\$6,000) on October 1, 2015, and shall be increased to eight thousand dollars (\$8,000) on October 1, 2017. regardless of whether the remuneration is from one or more employers, and the employee contributions are withheld and paid to the Administration; the excess employee contributions during the four (4) quarters ending on December 31st shall be refunded by the Administration to the Palauan employee within ninety (90) days after that date.

(c) Foreign Worker Employee: an employee, who is a foreign worker under 30 PNC [Labor], is eligible to receive a refund if they contribute on a total remuneration in excess of the maximum remuneration of six thousand dollars (\$6,000) on October 1, 2015, and shall be increased to eight thousand dollars (\$8,000) on October 1, 2017.. However, the foreign worker, as required under 30 PNC § 169, shall only work for the one (1) employer that is listed on their foreign worker permit and the employee's contributions must have been withheld and paid to the Administration. The excess employee contributions during the four (4) quarters ending on December 31st shall be refunded by the Administration to the foreign employee within ninety (90) days after that date.

A foreign employee shall be deemed "working for the employer listed on the work permit" when the foreign employee is working for the employer listed on the foreign worker permit or a subsidiary, branch, division, or other business which is legally situated under or a part of the employer listed on the foreign employee worker permit.

A foreign employee who is working for two (2) separate and distinct employers, and has contributed on total remuneration in excess of the maximum remuneration of six thousand dollars (\$6,000) on October 1, 2015, and shall be increased to eight thousand dollars (\$8,000) on October 1, 2017. is NOT

entitled to a refund. Such foreign employee is working for two (2) different employers in violation of 30 PNC § 169 and shall be reported by the Administration to the Division of Labor, Immigration, and the Office of the Attorney General (41 PNC § 746).

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PART VII. DELINQUENCY, DEBT COLLECTION, PENALTIES, & INTEREST

Section 701. Quarterly Report Due Dates

- The due dates for the Quarterly Reports are as follows:
 - March 31st Report is due on April 30th
 - June 30th Report is due on July 31st
 - September 30th Report is due on October 31st
 - December 31st Report is due on January 31st
- Payment must be made by the due dates. Payment is defined as payment in cash or cash equivalent, in full, made to the Administration by the due date. Payments mailed and postmarked by the due date but not physically received at the Administration until after the due date will not be considered late payments.

Section 702. Authorized Late Payment

- Authorized Late Payment:
 - An employer, upon approval of the Administrator or his/her designee, may file their Quarterly Report on or before the due date and pay on a later date without the assessment of a penalty, but interest will be assessed. Factors to be considered in approving and determining the date for the employer to pay include:
 - Payment history of the employer
 - Number of times the employer has requested late payment
 - The employer's history of keeping his/her promises to pay
 - Any other relevant factors
- No employer will be granted more than one (1) authorized late payment in any cumulative 36-month term.
- An employer who continually files on time but pays late or continually requests late payment authorization will be referred to the Administrator. The Administrator will determine what steps need to be taken regarding the situation. Any employer that files late without the pre-approval of the Administrator is subject to interest and/or penalties in accordance with 41 PNC § 772 [12% interest and a penalty of \$250.00 or 100% of the outstanding contributions owed].

Section 703. Supplemental Reports

- There will be no penalty assessed for underpayments of Quarterly Reports due to simple miscalculations on the employer's part. The Administration's Collections Officers will attempt to review all Quarterly Reports before payment is collected. If a miscalculation or error is found and payment made was not enough, the payment and receipt will be held until the employer makes complete

payment. If a miscalculation or error is found and payment made was more than the actual amount owed, payment will be received, and the employer will be informed that the remainder of the overpayment shall be transferred to the next quarter.

Section 704. Collection Process

- Upon determining that an employer has not timely paid any sums due under 41 PNC, the Administrator will:
 - Issue a written first notice demand letter to the employer or person concerned requesting payment in full or by payment agreement of the sum due as well as any applicable penalties or interest within twenty-one (21) days of the date of the letter.
 - Upon passage of the twenty-one (21) day period without payment or agreement as to the means of payment, a written second notice demand letter requesting payment within fourteen (14) days of the date of the letter and setting forth that failure to comply will result in the referral of the matter to the Administration's Legal Counsel or the Office of the Attorney General.
 - Upon passage of the fourteen (14) day period without payment or agreement as to the means of payment, the Administration will issue a written final notice which states that the matter has been referred to the Administration's Legal Counsel or the Office of the Attorney General for legal action. The Administrator shall inform the Board of all such referrals.
- The Administrator may waive or extend the time-frame requirements set forth above when in his/her opinion such waiver or extension makes good economic sense and provides for a more efficient collection effort. Such waivers of extension will be brought to the attention of the Board. The Board shall have the right to void the Administrator's determination of waiver or extension.

Section 705. Delinquency

- Every effort will be made to collect on any amount owed to the Administration. However, an employer's failure to file any Quarterly Report for sixty (60) days past the due date of said report will result in a delinquency. All materials regarding the delinquency will be turned over to the Administration's Legal Counsel or the Office of the Attorney General for collection and/or legal action.

Section 706. Interest Assessment

- Interest will be assessed in accordance with 41 PNC § 772 and shall not be waived by the Board unless the Board finds that there are exceptional circumstances or unless debt is to be "written off" for accounting purposes.
- Interest will be charged at an annual rate of twelve percent (12%) for any amount of tax due beyond the end of the month following the final filing date or the next business day if the final filing date falls on a weekend or holiday.

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PART VIII. OFFENSES AND PENALTIES

Section 801. Administrative Fees

The Administration may impose a fee on any individual for noncompliance with 41 PNC or these rules and procedures that results in an administrative cost to the Administration. Examples of such administrative fees include late fees, filing or reporting fees, auditing fees, and noncompliance fees.

[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws]

Section 802. False Statements and Reports

Any person who knowingly makes a false statement or falsifies any report to or record of the Administration with the intention to defraud the Social Security System is guilty of a misdemeanor, punishable by imprisonment for up to twelve (12) months, a fine of not more than two thousand dollars (\$2,000.00), or both. This section does not preclude any criminal prosecution by the Office of the Attorney General under 17 PNC.

[Source 41 PNC § 771]

Section 803. Failure to Report or Pay

An employer who fails to report any amount of remuneration paid or fails to pay any amount of contributions due to the System is liable for a civil penalty, at the discretion of the Board, not exceeding one hundred percent (100%) of the amount of any contributions withheld or two hundred fifty dollars (\$250.00), whichever is greater.

[Source 41 PNC § 772(a)]

Section 804. Knowingly Fail to Report or Pay

An employer who knowingly fails to report any amount of remuneration paid or knowingly fails to pay any amount of contributions due to the System is guilty of a misdemeanor and liable for a fine not exceeding two thousand dollars (\$2,000.00). This section does not preclude any criminal prosecution by the Office of the Attorney General under 17 PNC.

[Source 41 PNC § 772(b)]

Section 805. Nonpayment

If any contribution or penalty imposed by 41 PNC is not paid on or before the prescribed date, interest will accrue at a rate of twelve percent (12%) per annum from its due date until it is paid. In addition to unpaid contributions and penalties, the employer shall also be liable for reasonable attorney's fees and costs of collection, including court costs. The amount of any civil penalty, interest, attorney's fee, or cost of collection will be paid to the Retirement Fund.

[Source 41 PNC § 772(c)]

Section 806. Liens for Contributions

All contributions, including penalties, interest accrued, and attorney's fees thereon, imposed or authorized under 41 PNC shall be a lien upon any property of the employer, having priority over all other claims and liens, including liens for other taxes. These liens may be collected by levy upon such property in the same manner as the levy of an execution.

[Source 41 PNC § 807]

Section 807. Front Businesses

The Administration shall report any suspected front businesses, as regulated in 28 PNC, to the Office of the Attorney General and the Foreign Investment Board. In determining whether a business is suspected of "fronting" for a foreign person or operation, the Administration will consider factors such as:

- Whether the Palauan business license holder participates in the management or operations of the business (e.g., paying taxes, hiring/firing employees, making business decisions, etc.)
- Whether the Manager of the business is a non-citizen who makes all management and operational decisions of the business
- Whether there exists an Agreement between the Palauan business license holder and the non-citizen Manager in which the Manager agrees to pay the Palauan a monthly fee (usually around \$350.00) and the Palauan agrees not to interfere in the business
- Whether the non-citizen Manager (and the Palauan business license holder) have a foreign investment approval certificate ("FIAC") issued by the Foreign Investment Board
- Whether the non-citizen Manager or the Palauan business owner have been prosecuted or convicted under 28 PNC, 40 PNC, 17 PNC, or 41 PNC in the past.

[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 28 PNC]

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PART IX. ETHICS AND SECRECY

Section 901. Nonpublic Information

Employees must not use information acquired during their official employment for personal gain until such information has been made available to the general public.

[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 33 PNC]

Section 902. Secrecy

* If a Board member or Administration employee discloses information about an employer, employee, or person receiving benefits under 41 PNC that they have learned due to their employment, they may be found guilty of a misdemeanor and face imprisonment for up to twelve (12) months or a fine of not more than \$2,000.00, or both. Exceptions include:

- + Disclosure for any function or purpose under 41 PNC;
- + Disclosure required by court order, subpoena, or warrant;
- + Disclosure when there is suspected criminal activity;
- + Disclosure in cooperation with an investigation by the Ministry of Finance, the Office of the Attorney General, or any other government investigation or prosecution; or
- + Any other disclosure authorized by the Board.

[Source 41 PNC § 773]

Section 903. Administration Property

Employees must not use Administration equipment, facilities, assets, or property for private or political purposes.

[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 33 PNC]

Section 904. Disclosure of Interests

* Each employee must disclose, in writing, all financial interests that may be subject to 41 PNC. For the purposes of this section, "financial interest" means:

- + Any business entity in which an employee has a direct or indirect ownership interest;
- + Any real or personal property in which an employee has a direct or indirect ownership interest, including a leasehold interest, having a fair market value of \$1,000.00 or more;
- + Any source of income, including compensation and gifts, and loans from sources other than commercial lending institutions made in the normal course of business, aggregating \$500.00 or more in value received by or promised to the employee during the preceding twelve (12) months;
- + A directorship or officership in a business;
- + Any source of contributions aggregating \$1,000.00 or more in value received by or promised to the employee during the preceding four (4) years.

As used in this section, "indirect ownership interest" means any interest owned by the spouse or dependent children of an employee or by an agent on behalf of an employee, or the pro rata share of an interest owned by a business entity in which an employee or an employee's spouse or dependent children cumulatively own a ten percent (10%) or greater interest.

[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 33 PNC]

Section 905. Conflict of Interest

* No employee may take, participate in taking, or use their position to attempt to influence any official action where it is reasonably foreseeable that the action could have a material financial effect on that

employee, or on any financial interest of that employee, that is different from the effect on the public generally. Any employee who is unable to disqualify themselves on any matter because they are the only person authorized by law to perform the official action must disclose such interest.

* No employee may acquire a financial interest in any business or other undertaking which they have reason to believe may be directly affected by official actions to be taken unless such interest is disclosed.

* No employee may assist any person for compensation or act in a representative capacity before any national or state government agency in any matter that relates in any way to the Social Security Administration's duties or responsibilities, except as provided by law.

* No employee may use or attempt to use their employment or position to secure or grant privileges, exemptions, advantages, contracts, or treatment for themselves or others, including but not limited to:

- + Seeking other employment or contracts for services for the employee by using or attempting to use the employee's employment or position; and

- + Soliciting, receiving, or accepting compensation or other consideration for the performance of the employee's duties or responsibilities except as provided by law;

- + Soliciting, receiving, or accepting any gift or other item of monetary value from any person seeking official action from, doing business with, or conducting activities regulated by the Social Security Administration, or from any person whose interests may be substantially affected by the performance or nonperformance of the employee's duties; provided that this subsection shall not apply to wedding gifts, customary gifts, and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.

* No employee may engage in any outside employment or other outside activity that is incompatible with the full and proper discharge of the employee's position or employment.

* ALL DISCLOSURES SHALL BE MADE TO THE ADMINISTRATOR IN WRITING.

[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 33 PNC]

Section 906. Recusal

* An employee who has disclosed a conflict of interest shall recuse themselves from working on or hearing any matter pertaining to the conflict of interest unless the Administrator deems it appropriate for that employee to act or hear the conflicted matter.

* For example, a collections officer may not collect or reach any agreement with a business in which the collections officer holds a disclosed significant financial interest unless the Administrator deems such action appropriate.

Or, a benefits officer may not determine benefit rights for a beneficiary they are related to unless such relationship is disclosed and the Administrator deems such action appropriate.

[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 33 PNC]

Section 907. Mismanagement of Fund.

* Any person who has a fiduciary relationship with the Fund, including but not limited to any member of the Board and the Administrator, who is found guilty of mismanagement of the Fund, whether by malfeasance, breach of fiduciary duties, or other action, shall be guilty of a felony and is liable to

imprisonment for a period not to exceed fifteen (15) years or a fine of not more than \$100,000.00 or both.

[Source 41 PNC § 774]
