

Organization Information Extracted from: section 203-206.5.docx

PART 1: INFORMATION FOR ROPSSA (Royal Palau Social Security Administration)

****Section 203: Self-Employed****

Determination of Self-Employment & Employer-Employee Relationship

***Government Employer (ROP):** The National Government of the Republic of Palau is an employer within the Republic.*

Independent Contractor or Contract Employee:

- A person employed under a contract may be self-employed or may be in an employer-employee relationship.
- 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 be considered, but shall not be definitive, in any determination to be made by the Administrator under this section.

Employer-Employee Relationship or Self-Employed:

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

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 by any outside party is a factor to be considered, but shall not be definitive, in any determination to be made by the Administrator under this section.

Economic:

- Whether the services offered by the worker are an integral part of the employer's business;
- Whether the worker's services are sold or distributed through contracts for their benefit and at their expense;
- Whether the worker has all the equipment needed to perform the services and whether the employer provides it;
- Whether the worker has a financial risk with respect to whether the services will be performed;
- Whether the worker has training, incentives, and other factors that indicate that the worker is in business on his or her own behalf.

Technical:

- Who determines how, when, and where the work is done;
- Who provides all necessary tools, materials, and supplies;
- Who sets the price for the services provided;
- Who has the right to hire and fire;
- Who pays business expenses;
- Who is responsible for obtaining licenses and permits;

- Who maintains insurance;
- Who provides benefits to employees.

Factors (d):

- The degree of control exercised by the employer over the worker's activities;
- The nature of the work performed;
- The length of time the worker has been engaged in the business;
- The amount of money spent on the worker's services;
- The taxes paid by the worker;
- The worker's opportunity for profit or loss;
- The degree of permanency of the working relationship.

Remuneration:

A self-employed person, who has, in a given quarter, no employees who receive remuneration from him, shall be presumed to receive in any given quarter, as remuneration, ten percent (10%) of his gross revenue in the current quarter. This presumption is only rebuttable by clear and convincing evidence when a determination has been made by the Administrator.

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 and shall be handled in the same manner as a private employer. The amount of annual gross revenues shall be determined from the information submitted to the Tax Office. This information shall be made available to the personnel of the Social Security Office under 41 PNC §810(a).

Calculation:

The method of calculating quarterly wages for self-employed persons who have no employees shall be calculated by multiplying the quarterly gross revenue in the preceding quarter by ten percent (10%), then multiplying by twelve percent (12%).

Special Circumstances:

- 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, shall have the option to be covered by 41 PNC, provided that he reports himself based on his Gross Revenue Tax (GRT) or income per quarter.
- 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, then 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.
- 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. The gross revenue for the year has not yet reached \$10,000 so the person may, but is 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 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.

- Multiple businesses: A self-employed person who has more than one business submitting separate quarterly reports, shall first report his or her 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.

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 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.