

ROPSSA Operations Manuals - Edited Content

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 person, who has no employees in 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 following a determination made 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 are considered 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 persons 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 them 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.

(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 an 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.

(d) ****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****

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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 themselves based on the presumed ownership under this policy.

(f) 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.

(g) 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.

Edited Content for Manual Chunk: section 304.docx

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 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 the 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. Starting 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.

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

Edited Content for Manual Chunk: section 323-325.docx

PART III. BENEFITS (fourth chunk)

SUB-PART D: SURVIVING SPOUSE & CHILD INSURANCE BENEFITS

Section 323. Dependency

1. The Administration will determine that a surviving child or impaired adult is dependent upon a deceased insured person 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 such 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 deceased 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 shall be required to show dependency.

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

Section 324. Bona Fide Student

1. The Administration will make a determination 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:

- They attend a school, which provides 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 shall furnish the Administrator with a form (ROPSSA 630-20) completed by the officials of the school attended;

- They are in full-time attendance in a 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

- 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, that person shall not be deemed a bona fide student.

2. 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:

- The non-attendance is four (4) consecutive months or less;

- 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

- 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 beyond the due date. The penalty amount will either be \$250 or 100% of the amount due, whichever is greater.
2. The assessment of penalties will continue each quarter that 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 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 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 to have merit 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 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 conduct 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 contribution 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 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 the 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 penalties 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 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 Payment Agreement entered into shall 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, as outlined in Section 204. The remaining partner may be reported as an employee, an owner, or not reported, contingent upon the stipulations of any 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, provided that the wages are for holding corporate office. Conversely, a director is not classified as 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. 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 of Employee Contributions****

Employer(s) of the employee shall collect these contributions by deducting the amount from each payment of remuneration.

****Example:**** 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 remains liable for reporting and paying the contributions of that employee.

****Liability and Indemnification****

Every employer required to deduct employee contributions is liable for their payment to the Board. The Board shall be indemnified from the Retirement Fund against any claim or demand by any person for the amount of any such payment (41 PNC § 743).

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

****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, provided that the employment is documented and wages are paid (41 PNC § 702(a)(8), (11), & (13) & U.S. IRS).

****Section 211 Revised and Consolidated with Section 203****

****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 defined by 41 PNC § 702(a)(13) and § 703, maintains a physical presence in the Republic of Palau. This presence 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).

Edited Content for Manual Chunk: sections 214–215.docx

PART II. CONTRIBUTIONS (fifth chunk)

SUB-PART E: EMPLOYER CONTRIBUTIONS

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

All employers conducting business in the Republic of Palau are required to contribute to the Social Security Administration an amount equal to six percent (6%) of the remuneration paid to employees, or for self-employed individuals subject to 41 PNC § 741, the equivalent amount deemed to have been paid to them. This percentage applies from the fourth quarter of 2001 onwards.

If an employer has no eligible employees but has annual gross revenues exceeding ten thousand dollars (\$10,000), they are obligated 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 is paid with grants that are covered under a treaty with the National Government and explicitly exempt the employer from 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 to pay contributions. These audits are conducted to determine the accuracy of Social Security Reports submitted and to 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 shall 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, upon approval from the Board, may either issue a subpoena for compliance or audit the employer based on other records such as gross revenue tax. Records may also be obtained from the Division of Revenue and Tax, Labor, and Immigration, the Office of the Attorney General, and the Foreign Investment Board, at the Administrator's discretion. Audit findings shall be based on the best available evidence.

(2) ****Audit Completion:**** Upon completion of any audit, the Administration shall grant an employer thirty (30) days to confirm or dispute audit findings. If an employer does not confirm or dispute the findings within thirty (30) days, in writing, the Administration shall automatically confirm the audit findings. If the audit findings indicate outstanding Social Security liabilities, the Administration will notify the employer of such amounts according to 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 are conducted with any employer. The date, purpose, and communication conveyed in each visit or phone conversation with any employer shall 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 by the Administration, including a Corporate Charter, By-Laws, partnership agreement, joint venture agreement, or other relevant documents. Every corporation solely owned by Palauan citizens must also complete the Employer Identification Number 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 required information by the Administration, including but not limited to the Foreign Investment Approval Certificate, Corporate Charter, By-Laws, Articles of Corporation, partnership agreement, joint venture agreement, investor permit, and any other required documents.

(c) ****Foreigners who are sole owners of professional businesses in the field of medicine, law, or other types of businesses exempt from the requirements imposed by the foreign investment laws of Palau must complete the Employer Identification Number Application and provide any required information, including 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 shall not be eligible to obtain another 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 shall be issued under the following circumstances:

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

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

****Non-issuance of Employer Identification Numbers:**** New or renewed Employer Identification numbers shall not be issued to employers who have 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, including those mentioned above, are to be approved by the Social Security Administrator.

****Issuing an Employer Identification Number Card:**** The Administration shall 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

(1) Social Security Card: The Social Security Administrator or their designated representative will assign a unique Social Security number to each employee contributor, which will be displayed on the corresponding Social Security card.

(a) Palauan Citizens: Every Palauan citizen is 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 provided.

(b) Foreigners: All individuals who are not Palauan citizens must provide a valid provisional visa issued by the Bureau of Immigration, a passport with at least six months remaining before expiration, and any other appropriate form of identification when applying for a Social Security Number. The Administration will retain copies of all presented identification. The Administration may only issue Social Security Numbers to holders of the following provisional or permanent immigration visas:

- 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 will not issue Social Security Numbers to the following visa holders or individuals 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

Individuals not covered by the aforementioned rules will be considered on a case-by-case basis.

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

(2) Issuing Social Security Numbers for Purposes other than Employment: The Administration will establish a written policy outlining administrative fees for issuing a Social Security Card, including fees for duplicate cards.

(3) Employer Retention Requirements: Every employer must retain a copy of each employee's Social Security Card for reporting purposes under 41 PNC.

(4) Legal Name: A person's legal name is used for Social Security purposes, which is the name they use for employment, school, and other purposes. This may differ from their birth certificate-listed name but should match their passport, driver's license, and employment or school records.

If a person uses a legal name that differs from their birth certificate-listed name, additional evidence of their legal name must be submitted. A passport, court decree of name change, marriage license showing a married name, and other substantial evidence are examples of such documentation. If none of these documents are available, alternative 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 their legal name to support the change, such as a passport, court decree of name change, marriage license showing a married name, or other substantial evidence.

If multiple names have been used, the legal name shown on the most recent of the following—a passport, court decree of name change, or marriage license showing a married name—will 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 their 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 current usage will be used as the legal name for Social Security purposes.

[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 will not be eligible to obtain a Social Security Number for new employees without first executing a payment agreement with the Social Security Administration or remitting full payment of the amount owed. Applications in such cases should be referred to the Social Security Administrator for consideration.

Edited Content for Manual Chunk: sections 301–303.docx

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, permanently insured, or insured at the onset of 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 death or recovery from 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 is the basic benefit, with a minimum monthly benefit of one hundred forty-eight dollars (\$148.00), effective on October 1, 2013. The basic benefit shortfall will apply as set forth in Section 304 (c).****

****Subject to Section 754(b), if the 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 eighty percent (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) The term "disability" shall mean 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.

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 he or she has 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.

(b) Substantial gainful activity is work activity that is both substantial in nature and gainful in terms of compensation:

* 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 he or she has 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 continues. 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 occur 12 months after the date of 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 earlier if specified by a Medical Examiner.
4. If improvement is not expected, the claimant's medical condition will be reviewed once every seven years or earlier if specified by a 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 so requires, 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 commenced. 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, if eligible, 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 such person stopped working due to the disability; and
 - c. All medical records pertaining to the person's 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, §

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 his or her basic living expenses during the time it takes to process his or her application. If it is found that the individual is not disabled, he or she is 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 earning 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, however, 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 without forfeiting their monthly benefit amount, but they cannot receive more than one survivor's insurance benefit [41 PNC § 755 (a), as amended by RPPL No. 9-12, Sec.6].
2. The monthly benefit amount is sixty percent (60%) of the deceased wage earner's basic benefit, inclusive of any applicable basic benefit shortfall 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 survivor's insurance benefit and another benefit without reduction. For those born on or after January 1, 1954, the survivor's insurance benefit is sixty percent (60%) of the total 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 person under 60 years old who earns more than \$3,000 in any quarter will have their survivor's benefit reduced by one dollar for every three dollars earned in excess of \$3,000 in the respective quarter [41 PNC § 755(d), as amended by RPPL No. 9-12, Sec. 6].
5. If a surviving spouse beneficiary is eligible to receive another benefit, they have the option to receive both benefits on a monthly basis or to receive either benefit in one lump sum while continuing to receive the other benefit 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 (5) years following the death of their insured husband or wife. Along with the completed application, the surviving spouse shall submit:
 - The death certificate of the insured spouse;
 - Birth certificate or other official identification documents showing 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, proof 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 (one from each 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 shall 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 shall only recognize one surviving spouse and only one surviving spouse shall receive survivor's spouse benefits under 41 PNC. In the event that more than one surviving spouse claims such benefits, the Administration shall hold such benefits until a determination is made. The benefits shall 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 shall 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 deceased person immediately before their death 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 years while still 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 fifteen percent (15%) of the deceased's applicable basic benefit 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 shall include copies of:

- The death certificate of the deceased insured person;

- The birth certificate of the surviving child applicant;
 - If applicable, proof of adoption by the decedent if the applicant is not the natural child of the decedent;
 - If applicable, proof of bona fide student or disabled status, in accordance with these by-laws;
 - Proof of guardianship if the applicant is living with someone other than the surviving spouse of the decedent; and
 - If the above evidence is unavailable, such other documents deemed necessary and appropriate by the Administrator [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws].
-

Edited Content for Manual Chunk: sections 326–330.docx

PART III. BENEFITS (fifth chunk)

SUB-PART E: OTHER BENEFIT PROVISIONS

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

If an employee contributor dies and all rights to survivor insurance benefits 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:

- To the spouse; or
- If there is no surviving spouse, to the children, or to any guardian or trustee for the children, in equal shares; or
- If there is no surviving spouse or child, to the parents in equal shares; or
- If there is no surviving spouse, child, or parent, to the duly appointed legal representative of the deceased; or
- 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 he or she is 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.

- 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
- 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 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 surviving spouse benefit as a result of the enactment of RPPL No. 7-32.

The earnings test is applied as follows:

- 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.
- 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.
- 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 surviving spouse benefit as a result of the enactment of RPPL No. 7-32.

The earnings test is applied as follows:

- 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.

- 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.

- 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. 9-11, Sec. 3]

Edited Content for Manual Chunk: sections 401–407.docx

PART IV. FORMS OF PROOF OR 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 provide evidence within a reasonable timeframe may result in the suspension of benefit payments until the necessary evidence is produced. In the case of a minor (individuals under the age of eighteen (18) years), a request 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 the date of birth based on all available evidence presented or obtained. For purposes of determining eligibility for benefits, record-keeping, and other purposes, the Administrator may weigh the credibility of the following documents in descending order to establish the date of birth:

- ☐+ Birth certificate of claimant issued at close temporal proximity 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 in close temporal proximity to the listed date of birth; and

□+ Any other evidence considered by the Administrator to be of probative value.

* Records evidencing the date of birth of a claimant that were produced close in time to such birth date shall be given greater probative weight than records later produced or amended, particularly those produced or amended close in time to the retirement date of any claimant. Testimony or affidavits of persons who have knowledge relevant to 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 benefit.

Section 403. Date of Death

* A death certificate issued in the Republic of Palau or another duly recognized jurisdiction shall 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 shall presume that the birth parents of a child or impaired adult are the legal guardians. The following evidentiary documents may prove or disprove guardianship:

□+ A final court order, including a custody determination or adoption papers, from any duly 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.

* Relinquishment of Parental Rights: 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 shall result in the Administration holding any benefits in trust for the child or impaired

adult at issue 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 a decision or execute an agreement or other legal matter.

* 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 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 effects 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]

Edited Content for Manual Chunk: sections 501–505.docx

PART V. HEARING AND APPEAL

Section 501. Matters for Determination

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

- Rights, benefits, or obligations under 41 PNC or these policies and procedures
- 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
- Determination of outstanding Social Security liabilities
- Date of birth, date of death, or guardianship determination

[Source 41 PNC § 716]

Section 502. Determinations

A determination is a decision made 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.

[Source 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.

- [Source 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 request reconsideration of that decision within thirty (30) days of receipt of the Administrator's decision. The request for reconsideration should be filed in writing and include any reasons or additional documentary evidence that would support a reversal of the original decision.

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. 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.

[Source 41 PNC § 716]

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. 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. 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
- The names and addresses of all parties and other persons to whom notice is being given.

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.

[Source 41 PNC § 716]

Edited Content for Manual Chunk: sections 601–603.docx

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 as business operators within the Republic of Palau. Failure to report or pay contributions without a valid legal defense based on ignorance will not be accepted.

2. The official report forms, provided free of charge by the Administration, require employers to provide additional information specified by the Administrator, including:

- Employer Identification Number (as assigned under 41 PNC § 747)
- Employee Contributor Social Security Number (as assigned under 41 PNC § 747)
- Home, work, and cell phone numbers for the employer
- 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 business records. 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 for any errors or false information submitted.

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

5. [41 PNC § 745]

Section 602. Quarterly Tax Reports

1. All Social Security Quarterly Tax Reports, along with full payment, must be submitted to the Administration. Quarterly Tax Report forms are available at the Administration free of charge. Reports and payments should be submitted within a month following the end of each quarter. When payment is made, reports should indicate the payment date, receipt number, and the amount actually paid.

2. Upon payment, the first copy of the report shall be submitted to the Administration. The employer shall retain the second copy. The report shall include:

- Complete name of business or owner (in case of a 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 (increased 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 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 offset any outstanding Social Security debt. (Board Resolution 2007)

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

2. (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.

3. (b) Palauan Citizen: A Palauan citizen who is an employee contributing more than the maximum remuneration of six thousand dollars (\$6,000) on October 1, 2015, and 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.

4. (c) Foreign Worker Employee: A foreign worker who is an employee, as required under 30 PNC [Labor], is eligible for a refund if they contribute more than the maximum remuneration of six thousand dollars (\$6,000) on October 1, 2015, and increased to eight thousand dollars (\$8,000) on October 1, 2017. However, the foreign worker must work only for the one (1) employer 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.

5. A foreign employee is considered "working for the employer listed on the work permit" when they are working for the employer listed on the foreign worker permit or a subsidiary, branch, division, or other business legally situated under or part of the employer listed on the foreign employee worker permit.

6. A foreign employee who works for two (2) separate and distinct employers and has contributed more than the maximum remuneration is not entitled to a refund. Such foreign employee is working for two (2) different employers in violation of 30 PNC § 169 and will be reported by the Administration to the Division of Labor, Immigration, and the Office of the Attorney General.

7. [41 PNC § 746]

Edited Content for Manual Chunk: sections 701–706.docx

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 his/her contributions include but are not limited to:

- Payment history of the employer
 - Number of times the employer has requested late payment
 - The employer's history of keeping his/her promise 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 shall 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 shall 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 shall 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 shall:
 - 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 shall 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 shall 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 or extension shall 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 shall 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.

Edited Content for Manual Chunk: sections 801–807.docx

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, which directly 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, of not more than 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 of not more than 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, there shall be collected, in addition to such contribution and penalty, interest on the unpaid balance at a rate of twelve percent (12%) per annum from its due date until it is paid. In case any contributions, interest, or penalties due under 41 PNC are referred to an attorney for collection, whether or not suit is brought for their collection, the employer shall additionally 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 shall 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 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 making such a determination that a business is suspected of "fronting" for a foreign person or operation, the Administration shall 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, business decisions, etc.)
- Whether the Manager of the business is a non-citizen who makes all management and operational decisions of the business
- Whether the Palauan business license holder and non-citizen Manager have an Agreement 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]

Edited Content for Manual Chunk: sections 901–907.docx

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 member of the Board or an 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, a fine of not more than \$2,000.00, or both. Exceptions to this section 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 duties or responsibilities of the employee.
- * 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 the use or attempted use of 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]
