

ROPSSA Operations Manuals - Edited Content

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

PART I. GENERAL PROVISIONS

Section 101. Authority

The following rules and procedures are promulgated pursuant to and in accordance with RPPL No. 2-29, as amended by RPPL No. 3-64, as codified in Title 41 of the Palau National Code (hereinafter "PNC") pursuant to § 711 and § 712(d). These rules and procedures have been promulgated by the Republic of Palau Social Security Board (hereinafter "Board") and shall have the force and effect of law. These rules and procedures shall be supplementary to 41 PNC, unless otherwise provided by the Board. [Source: 41 PNC § 711 and § 712(d)]

Section 102. Purpose

The purpose of these operational rules and procedures is to ensure the efficient and economical operation of the Social Security Administration as a governmental administrative agency which is charged with the responsibility and duty of providing a compulsory, self-supporting, and self-financing national insurance system which is also known as the Social Security System. [Source: 41 PNC § 701]

Section 103. To Whom Applicable

Unless contrary to the administration of the Social Security System, these operational rules and procedures are to be enforced by employees of the Social Security Administration (hereinafter "Administration") of the Republic of Palau as they apply to all employers and employees who are covered by and subject to the provisions of 41 PNC. [Source: 41 PNC § 703]

Section 104. Definitions

Unless otherwise provided, the definitions as set forth in 41 PNC § 702 are hereby incorporated in and made a part hereof by reference for all purposes. [Source: 41 PNC § 702]

Section 105. Amendment

Any provision of these rules and procedures may be amended by a majority vote of the membership of the Board. However, the Board shall not take official actions that are contrary to these rules and procedures and then amend these rules and procedures to retroactively make such official action in accordance with these rules and procedures. [Source: 41 PNC § 711, § 712(d), & SSA By-Laws]

Section 106. Sovereign Immunity

The Administration is a governmental administrative agency, that when acting on behalf of the National Government in its official capacity, is protected by the doctrine of sovereign immunity unless otherwise provided. [Source: Doctrine of Sovereign Immunity]

Section 107. Record Keeping

The Administrator shall maintain records of all employees and of all contributors, including self-employed persons for a minimum of ten (10) years. The Administrator may maintain any record for more than ten (10) years when the Administrator finds that it is in the best interest of the System to maintain such records for purposes including, but not limited to, on-going or future legal actions, debt collection, settlement agreements, estate proceedings, or other necessary purposes. [Source: 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 108. Funds

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

Section 109. Discretion of the Administrator

The Administrator shall have the discretion to deviate from these rules and procedures as he or she deems necessary to best serve the interest of the Administration. In the event that the Administrator deviates from such rules and procedures, he or she shall so inform the Board in writing during the next regular meeting. In no way does this section approve any acts committed by the Administrator that are contrary to law. [Source: 41 PNC § 724 & SSA By-Laws]

Section 110. Uniformity

All provisions of these rules and procedures shall be interpreted and applied in a uniform, nondiscriminatory manner. [Source: Article IV, Section 5. ROP Constitution]

Section 111. Severability

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

Section 112. Effective Date

These rules and procedures shall take effect upon their approval by a majority vote of the Board of the Republic of Palau Social Security Administration. All actions prior to the effective date of these rules and procedures shall not be subject to these newly promulgated rules and procedures. [Source: General Provision]

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

****Operations Manual Content for Editing:****

****PART II. CONTRIBUTIONS (first chunk)****

****SUB-PART A: REMUNERATION****

****Section 201. Remuneration Defined****

Remuneration, as defined in 41 PNC § 702(a)(21), is taxable and includes, but is not limited to:

- Hourly or daily wages
- Salaries
- Bonuses or awards
- Sales commissions (on products, equipment, land, housing, insurance, etc.)
- Shares of profits
- Back pay
- Land
- Pay advances
- Termination pay
- Tips
- Space and equipment rental
- The value of food and lodging provided (except in specific cases)

Remuneration must be actually or constructively paid to the employee for it to be taxable and credited to their account. It is deemed constructively paid when it is credited to the employee's account or set aside for them, making it available without restriction for immediate drawing. This applies when:

- The remuneration is credited or set aside for the employee and made available without restriction; or
- The employer intends to pay or set aside the remuneration when due, with failure due to clerical error or mistake in payment.

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

****Section 202. Maximum Remuneration****

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

****Reference(s):****

- [41 PNC § 702(a)(21)] (Revised 06/01/2009)
- [41 PNC § 742] (Revised 03/13/14. See Section 7 of RPPL No. 9-12)

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

****PART II. CONTRIBUTIONS CONTINUED**

****SUB-PART B: SELF-EMPLOYED****

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

Section 203 consolidated former Sections 203, 208, 209, and 211

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

***Independent Contractor or Contract Employee:** A person employed under a contract may be a self-employed independent contractor or may be in an employer-employee relationship. The factors listed in subsection (d) will be used to make that determination. The labeling of the person in the contract or by any outside party is a factor to be considered, but shall not be definitive, in any determination to be made by the Administrator under this section.*

***Employer-Employee Relationship or Self-Employed:** The Administrator will determine whether a person is an employee or self-employed using the factors listed below:*

Behavioral:

Who controls or has the right to control what the worker does and how the worker does his or her job?

Who sets the hours of work, the work schedule, or restricts one from working for other persons?

Who designates the location, place, or area of work?

Whether the worker must do the work themselves (do not have the power to subcontract the work being performed)?

Who pays expenses related to the work being performed.

Financial:

How the worker is paid (by the hour, week, month, by lump sum)?

Who provides tools, vehicles, and supplies?

Who invests in training, facilities, and equipment?

What types of benefits are in place (health or other insurance, vacation or sick pay, participating in pension plan, etc.)

Type of Relationship:

Does the worker perform services for a number of persons or firms at the same time?

Does the worker advertise to the general public or solicits others that he or she is available to perform services?

What written contracts are in place?

What is the duration of the work relationship?

Can either party terminate the relationship without being liable for damages?

The worker makes a profit or suffers a loss depending on the success of the business venture (an employee has no chance for a profit or loss).

Any other factors deemed appropriate by the Administrator.

Some factors may indicate that the worker is an employee, while other factors indicate that the worker is self-employed. There is no "magic" or set number of factors that "makes" the worker an employee or self-employed, and no one factor stands alone in making this determination.

The keys are to look at the entire relationship, consider the degree or extent of the right to direct and control, and finally, to document each of the factors used in coming up with the determination.

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

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

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

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

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

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

Section 204. Self-employed With At Least One Employee

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

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

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

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

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PART II. CONTRIBUTIONS CONTINUED

SUB-PART B: SELF EMPLOYED (continued)

SECTION 205: SELF-EMPLOYED WITH NO OTHER EMPLOYEES

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

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

(c) Delinquent Reports: Reports received after January 31st shall be deemed delinquent and shall be handled in the same manner as a private employer. The amount of annual gross revenues shall be determined from the information submitted to the Tax Office. This information shall be made available to the personnel of the Social Security Office under 41 PNC § 810(a).

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

(e) Example: Gross Revenue is \$50,000

* $\$50,000 \times .10 = \$5,000$ (max 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: Notwithstanding the foregoing sections, a self-employed retail merchant with no employee who receives remuneration from him or her with less than ten thousand dollars (\$10,000.00) of gross revenues in the preceding calendar year or a person working as a farmer, fisherman, or taxi driver, shall have the option to be covered by 41 PNC, provided that he reports himself based on his Gross Revenue Tax (GRT) or income per quarter.

(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, then remuneration shall be calculated as follows:

- * For the quarters where other employees have reported earnings, remuneration shall be calculated as in Section 204(a) and applied to those quarters only; and
- * For the quarters where no other employees have reported earnings, remuneration shall be calculated as in Section 205(a) and applied to those quarters only.
- * This calculation is presumptive and is rebuttable by clear and convincing evidence.

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

SECTION 206.5: SELF-EMPLOYED PERSON IS DECEASED

When a self-employed individual operating a sole proprietorship is deceased, the Administrator or Executor of the Estate, if one has been appointed, shall be responsible to report to SSA who will act as owner until a permanent transfer of ownership takes place. If no Administrator or Executor has been appointed or if that person has not reported to SSA, then SSA shall ask the heirs, in writing, to identify, within thirty (30) days of that request, who will act as owner until a permanent transfer of ownership takes place. If no one is identified by the Administrator, Executor or heirs as the acting owner until a permanent transfer of ownership takes place within (30) days of a written request, SSA shall apply the following order of priority to presume that individual is the acting owner:

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

This presumption of ownership applies only until a Court order identifies an owner, until a business license is issued to a new owner, or until other evidence is presented which sufficient to determine ownership. The Notice to the heirs shall include a notice that a presumed or acting owner under this policy shall not contribute to National Health Insurance or to a Medical Savings Account for him/herself based on the presumed ownership under this policy. If no one reports and pays contributions as an owner within two calendar quarters after the date of death of a self-employed individual, SSA may petition the Court for an Administrator or Executor to be appointed and to identify who is responsible to report and pay such owner's share pending a determination of permanent ownership. Upon permanent transfer of ownership, the individual identified as the permanent owner may be credited with all contributions paid by an Estate or by a presumed owner, since the date of death, in the discretion of the Administrator or as ordered by the Court as part of a final Order of Distribution.

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****PART III. Benefits (second chunk)****

****SUB-PART B: Old Age Insurance Benefit****

Section 304. Old Age Insurance Benefit

A fully insured individual who has reached the age of sixty years and retired is entitled to a monthly old age insurance benefit, commencing with the month following their eligibility and ending with the month preceding their death. This benefit is subject to the earnings test.

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

Fully insured means having not less than one quarter of coverage each year, starting from the later of June 30, 1968 or the year they turn 21, and ending with the year before their retirement age, disability, or death.

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

[40 PNC § 753]

The monthly benefit amount 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 earned between \$5,470 and \$10,909 with less than a \$50 increase in the minimum basic benefit of \$148 in October 2013, their benefit will receive an increase of \$148 or up to a maximum increase of \$50.

[RPPL 9-35]

Individuals receiving old age insurance benefits who return to employment remain eligible for the benefit. The benefit is recomputed to reflect any additional contributions after the end of the calendar year, with the recomputed benefit amount paid for each month following the end of that calendar year.

For persons 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 100% of the highest monthly average wage of the wage earner over any twelve quarters out of the last forty quarters preceding retirement.

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

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PART III. BENEFITS (fourth chunk)

SUB-PART D: SURVIVING SPOUSE & CHILD INSURANCE BENEFITS

Section 323. Dependency

- The Administration will determine that a surviving child or impaired adult is dependent upon a deceased insured person if the child or impaired adult received from such person 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. Such contributions must constitute a substantial part of the ordinary living costs of the child or impaired adult.
- Occasional or irregular gifts or donations do not qualify as they do not create dependency. Temporary interruptions in contributions, however, for circumstances beyond the control of the insured person are disregarded unless someone else takes over responsibility for support on a permanent basis.
- A child or impaired adult (1) who is living with the insured person at the time of the insured person's death; and (2) the insured person was related to the child or impaired adult, shall be presumed to be a dependent of such insured person. This presumption is rebuttable through clear and convincing evidence.
- A child or impaired adult living with the insured person at the time of the insured person's death, who is not related to the decedent as a natural child, stepchild, adopted child (legally or under Palauan custom), grandchild, or step-grandchild, shall be required to show dependency.

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

Section 324. Bona Fide Student

- 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:
 - (a) He or she attends 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. He or she shall furnish the Administrator with a form (ROPSSA 630-20) completed by the officials of the school attended;
 - (b) He or she is in full-time attendance in a day or evening non-correspondence courses and is 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

- (c) He or she is enrolled as a student at an elementary or secondary school and attends 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.

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

Section 325. Computation of Survivor Benefits

- 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).

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

- 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]

- 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.

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PART V. HEARING AND APPEAL CONTINUED

Section 506. Records and Findings of Fact

The record in an appeal to the Board may include:

- * 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 on request of any party at the party's 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.
- * (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

Section 707. Penalty Assessment

A penalty shall be imposed on any employer who fails to submit the Quarterly Report within the one-month filing period. The penalty will commence from the first day of lateness and is either \$250.00 or one hundred percent (100%) of the outstanding amount, whichever is greater. The assessment of

the penalty will continue for each quarter the Quarterly Report remains outstanding, with a maximum penalty limit of \$2,000 per offence.

A penalty of \$2,000 will be applied for any employer that knowingly fails to report or remit contributions and/or submits a false statement or falsifies records to defraud or circumvent the SSA Law. This penalty will be imposed for each such offence committed by the employer.

If an employer files the Quarterly Report on time, pays contributions, and subsequently reports an underpayment and files a supplementary report to correct the error, no penalty will be assessed. However, interest will be charged on the underpayment.

Employers can request a waiver of penalties or other considerations in writing to the Administrator. The Administrator will decide if the request has merit. If the request is found to have merit or if it presents mitigating circumstances, the request will be presented to the Board at their next regularly scheduled meeting for consideration. The Board will make the final decision on waiver and/or changes to any penalties assessed.

Section 708. Penalty Waiver

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

The Administrator has the authority to act on the request for penalty waivers if the following four factors are met:

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

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

Section 709. Collection Report

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, with one copy provided for the employer and the original copy retained by the Social Security files.

Section 710. Payment Agreements

The Administrator may enter into a Payment Agreement with any debtor of the Administration. The

agreement should 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.

All employers are aware they have an obligation to collect and pay Social Security taxes to the Social Security Administration. 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.

Section 711. Bounced Checks

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. A bounced check shall 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;

The Administration shall 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 shall not accept a check from a person or business that has bounced two checks to the Administration.

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

****Operations Manual Content for Editing:****

****PART II. CONTRIBUTIONS (third chunk)****

****SUB-PART C: PARTNERSHIPS & CORPORATIONS****

Section 206.5 A: Partnerships

In a partnership or a joint venture, at least one partner shall be reported as the owner for purposes of reporting remuneration, as per Section 204. The other partner may be reported as an employee, an owner, or not reported at all, depending on the terms of any written partnership agreement.

Section 206.5 B: Corporations

(a) An officer of a corporation is considered an employee for purposes of reporting remuneration, regardless of whether they perform services or not, as long as their wages are received for holding corporate office. A director, however, is not considered an employee of a corporation.

For a corporation with at least one employee, only the remuneration of employees is required to be reported.

(c) Reporting: A corporation must file its Social Security contributions report within one month of the end of each quarter. Any reports received after this period will be considered delinquent.

Note: (Section 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 in the Republic of Palau shall contribute to the Social Security Administration amounts equal to the percentages of remuneration received by the employee as provided in 41 PNC § 743 (the current percentage for 2001 to present being six percent (6%)).

- Employee contributions payable shall be collected by the employer of the employee by deducting the amount of the contributions from each payment of remuneration.

- Example: An employer allows an employee to perform work for another employer during the quarter. The second employer may report and pay contributions for that employee. However, the first employer shall continue to be liable for reporting and paying the contributions of that employee.

- Every employer required to deduct employee contributions is liable for their payment to the Board. The Board shall be indemnified (compensated for damage, loss, or injury suffered) from the Retirement Fund against any claim or demand by any person for the amount of any such payment.

- [41 PNC § 743]

- (Sections 208 and 209 revised and consolidated into Section 203)

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- Section 210. Family Employment

The existence of a family relationship does not preclude the possibility of an employee-employer relationship. The employee-employer relationship may be present under other sections of these rules and procedures, however, the employment must be documented and wages must be paid.

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

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- Section 211. 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]

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- Section 212. Part-Time Employment (Revised and Consolidated with Section 203)

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]

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- Section 213. Factors Determining Employee Working in the ROP

Employee working in the Republic of Palau as set forth in 41 PNC § 702(a)(13) and § 703 means that the

employee or the business enterprise in which the employee works maintains a physical presence in the Republic of Palau. Physical presence in the Republic of Palau includes, but is not limited to the following:

- 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

****Operations Manual Content for Editing:****

****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 at a rate equal to the percentage of remuneration paid to employees. The rate is six percent (6%) as of the fourth quarter 2001 and onwards. Employers must deduct Social Security tax from each wage earner's wages and pay an equal amount to the Social Security Administration. If an employer has no eligible employees but generates annual gross revenues exceeding ten thousand dollars (\$10,000), the employer must report themselves at a rate of 10% of gross revenues from the preceding year.

[41 PNC § 744]

Section 215. Employer Not Required to Pay

Employers are not required to pay Social Security contributions under the following circumstances:

- * When 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 by reporting themselves based on their Gross Revenue Tax (GRT) or income per quarter.
- * For casual employment.
- * When employed with grants that are covered under a treaty with the National Government, expressly exempting liability to a specified degree.
- * For employing Domestic Helpers (household helpers); 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****

****Sub-Part F: Payroll Record Retention****

Section 216: Payroll Record Retention

Any employer subject to the provisions of [41 PNC § 711, § 712(d), § 724 & SSA By-Laws] shall be required to keep any records relating to the payment of Social Security, including but not limited to contributions paid, payroll, and employee Social Security numbers for at least six (6) years. These

records shall be kept in English or Palauan and made available to the Administration at any time upon written request.

Section 217: Audits

Under the direction of the Administrator, the Administration may audit the records of any employer or of any self-employed person, to the extent that such audit has a bearing on the employer's or self-employed person's liability to pay contributions. These audits shall be conducted to determine the accuracy of Social Security Reports submitted and to ensure that every employee eligible for Social Security benefits is properly reported and that his or her contributions are paid in order to receive credit for retirement, disability, or in the case of death, survivor benefits.

Notice of Audit

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

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 audit findings, in writing, within thirty (30) days, the Administration shall automatically confirm the findings of such audit. If the audit findings indicate that there are outstanding Social Security liabilities to be paid, the Administration shall notify the employer of such amounts in accordance with the collections procedure.

Audit Information Record Book

A record book containing each employer's name shall be maintained and kept current when any actions, audits, or otherwise, 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.

Employer Identification Numbers

The Social Security Administrator, or his or her designee, shall assign to each employer an identification number.

(a) Palauan Citizens: Every business that is solely owned by Palauan citizens must thoroughly complete the Employer Identification Number application and provide any Corporate Charter, By-Laws,

partnership agreement, joint venture agreement, or any other information as required by the Administration. Every corporation that is solely owned by Palauan citizens must thoroughly complete the Employer Identification Number application and provide the Corporate Charter, By-Laws, and any other information required by the Administration.

(b) Foreign Businesses: Every business or corporation that has foreign ownership must thoroughly complete the Employer Identification Number application and provide any other information as required by the Administration including, but not limited to, the Foreign Investment Approval Certificate, Corporate Charter, By-Laws, Articles of Corporations, partnership agreement, joint venture agreement, investor permit, and any other information required by the Administration.

(c) Foreigners who are sole owners of professional businesses in the field of medicine, law or other type of business that are exempt from the requirements imposed by the foreign investment laws of Palau must complete the Employer Identification Number Application and provide any other information as required by the Administration including, but not limited to, 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 payment on time 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:

(a) 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.

(b) Change in Status: When a business changes status, such as a when a "Sole Proprietorship" changes 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 that mentioned above are to be approved by 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 December 31. Any employer with an existing debt that is not currently under a payment plan will be required to first execute a payment agreement prior to issuance of renewed Employer Identification Card. 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 renewed Employer Identification Card. Exempt from EIN Renewal are National Government, National Government Agencies and State Government.

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 designee, shall assign to each employee contributor a Social Security number and card bearing such number.

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

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

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

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

- * Student Visa
- * Temporary Visa
- * Tourist Visa
- * Foreign Military Personnel
- * Foreign Diplomats (or their families)
- * Crews of Commercial Carriers

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

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

(2) Issuing Social Security Numbers for Purposes other than Employment: The Administration shall establish a written policy for assessing an administrative fee to issue a Social Security Card, including a fee for issuing a duplicate card.

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

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

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

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

If the evidence shows multiple names have been used, the legal name shown on the most recent of the following; a passport, a court decree of name change, or a marriage license showing a married name, shall be used as the legal name for Social Security purposes. If none of those documents are available,

the person shall submit other substantial evidence showing his/her use of the requested legal name, such as a birth certificate, driver's license issued by the Republic of Palau, other government records, employment records, school records, court records, affidavits, and other available documents, along with a written explanation of any discrepancies. Under these circumstances, the legal name most consistent with the current usage shall be used as the legal name for Social Security purposes.

(5) [Source 41 PNC § 747]

(6) Section 220. Social Security Cards and Numbers – Non-Issuance

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

(b) Any applications are to be referred to Social Security Administrator for consideration.

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

****Operations Manual Content for Editing:****

****PART III. Benefits (first chunk)****

****SUB-PART A: Formula & Basic Benefits****

Section 301. Basic Benefit Formula

The Basic Benefit shall be 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; and
- * (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 the next thirty-three thousand dollars (\$33,000.00); and
- * (3) One and one 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 means 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 shall be limited to the following unless otherwise provided by law:

* Old age insurance benefits (41 § 753)

* Disability insurance benefits (41 § 754)

* Surviving spouse insurance benefits (41 § 755)

* Surviving child insurance benefits (41 § 756)

* 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 types of benefits]*

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PART III. BENEFITS (third chunk)

SUB-PART C: DISABILITY INSURANCE

Section 305. Disability Insurance

• A person, who is disabled and, at the time of the onset of the disability, was both fully and currently insured or was permanently insured, shall be entitled to a monthly insurance benefit. The benefit shall begin at the month in which the person became so entitled and end with the month before the month in which the disabled person dies or recovers from the disability, whichever occurs first, subject to the earnings test in §330.

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.

(b) 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.

Section 307: Medically Determinable Impairment

In order 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.

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, care givers, social workers, naturopaths, chiropractors, and audiologists.

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 (continued)

Section 310: Continuing Disability Reviews

- Disability reviews are conducted to determine if the claimant's disability continues. The frequency of reviews depends on the nature and severity of the claimant's medical condition and whether it is likely to improve.
- If improvement is expected, the first review will be 12 months after the onset of disability.
- If improvement is possible but not certain, the claimant's medical condition will be reviewed once every 3 years or earlier if specified by the Medical Examiner.
- If improvement is not expected, the claimant's medical condition will be reviewed once every 7 years or earlier if specified by the Medical Examiner.
- 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 required, 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

- To be eligible for disability benefits, a person must file an application no sooner than 60 days after the commencement of the disability. Applications submitted within 60 days of the commencement of the disability are not considered. The waiting period does not affect the claimant's right to receive retroactive benefits based on the date of the onset of the disability or the month after the termination date of employment, whichever comes later.
- Any person applying for disability benefits must provide:

- A birth certificate or other proof of age;
- A certification by their employer as to the date they stopped working due to the disability; and
- 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 comes later.

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

Section 312: Application Approval

- Any complete application for disability benefits containing all necessary supporting documents as required by law or these policies will be approved or disapproved not more than 60 days after the date of the application. The 60-day period may be extended for disability claims requiring medical evaluation or testing at the discretion of the Administrator.

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

Section 313: Exceptional Circumstances

- 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 6 months while the formal disability determination is made. The presumptive payment is designed to allow a needy individual to meet their basic living expenses during the time it takes to process their application. If it is found that the individual is not disabled, they are not required to refund the payments.

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

Section 314: Duration of Benefits

- Disability benefits will 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.

- [Source: 41 PNC § 754]

Section 315: Reapplication

- Once a person who has received disability benefits returns to work, they must reapply for disability benefits should they again become disabled. There will be no waiting period for a person applying for

disability benefits based on a disability for which they have previously received benefits, provided such prior benefits were received within the three (3) year period preceding the application.

•Section 316: Death of Claimant

•Any retroactive disability benefit payment approved following the death of a claimant will be payable to the deceased eligible survivors. The benefit thus payable will 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

•Any claimant or guardian of a claimant found by the Administrator to have completed a claim for disability benefits knowing such claim to be false will be reported to the Office of the Attorney Generals 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

A surviving spouse of a person who has died while fully or currently insured is entitled to a monthly survivor's insurance benefit. The benefit begins with the month following the surviving spouse's eligibility and ends with the month preceding the month of the surviving spouse's death. A widow or widower who is at least sixty (60) years old may continue to receive their monthly amount of benefit, but may not receive more than one surviving spouse's insurance benefit.

The monthly benefit amount is sixty percent (60%) of the basic benefit, inclusive of any basic benefit shortfall applicable to the deceased wage earner at the time of his or her death. If the surviving spouse was born before January 1, 1954, and is eligible for both the surviving spouse insurance benefit and another benefit, they will receive the full amount of the surviving spouse insurance benefit. If the surviving spouse was born on or after January 1, 1954, and is eligible for both benefits, they will receive sixty percent (60%) of the surviving spouse insurance benefit. However, if the surviving spouse was born on or after January 1, 1954, and became eligible for both benefits prior to August 2, 2007, they will receive the full amount of the surviving spouse insurance benefit.

Special Earnings Test for Surviving Spouse Benefits: A person who is under the age of sixty (60) and employed, earning more than three thousand dollars (\$3,000.00) in any quarter, will have their surviving spouse benefit reduced by one dollar (\$1) for every three dollars (\$3) earned in excess of three thousand dollars (\$3,000.00). The reduction is applied in the quarters immediately following the quarter in which the wages were earned.

If a surviving spouse beneficiary is eligible for another benefit, they may choose to receive both benefits on a monthly basis in accordance with Title 41, or receive either benefit in one lump sum, with the amount determined in accordance with Title 41, while continuing to receive the other benefit on a monthly basis in accordance with Title 41.

Section 319. Application for Surviving Spouse Benefits

A surviving spouse may file for benefits within at least five (5) years following the death of their insured husband or wife. Together with the completed application, the surviving spouse must submit the following:

- * The death certificate of the insured spouse;
- * Birth certificate or other official identification documents showing the marriage of the surviving spouse claimant;
- * A marriage certificate showing the marriage of the surviving spouse and the deceased insured person; or
- * If married under custom, the surviving spouse must be at least 18 years of age, have lived together for 3 years or more, have performed customary obligations as husband and wife by holding themselves out as such, and be recognized as husband and wife in the community by at least 3 close family members, at least one from the husband's family and one from the wife's family.
- * A sworn affidavit by the surviving spouse that the marital relationship between the surviving spouse and the decedent had not been terminated by divorce or annulment prior to the death of the decedent.

The Administrator will consider all available evidence in its determination. A surviving spouse may not file an application for benefits and elect to have the benefit suspended until a later date.

Section 320. More Than One Claimant

The Administration will only recognize one surviving spouse and will pay only one surviving spouse benefits under 41 PNC. In the event that more than one surviving spouse claims benefits, the Administration will hold such benefits until a determination is made. The benefits will be awarded to the surviving spouse whose un-terminated marriage to the decedent predates that of any other surviving spouse. Until the Administrator makes such determination, the survivor spouse benefits will be held in a separate account.

Section 321. Surviving Child Insurance Benefit

A surviving child who was dependent on the deceased person immediately before their death is

entitled to a monthly survivor's insurance benefit. The benefit begins with the month following the surviving child's eligibility and ends with the month preceding the month of the child's:

- * Attainment of the age of 18 years;
- * The attainment of the age of 22 years, as long as the child is a bona fide student;
- * Marriage;
- * Adoption; or
- * If a child is disabled before the attainment of the age of 22 years, the benefit is payable during the disability.

The monthly amount of the benefit is fifteen percent (15%) of the amount of the basic benefit applicable to the deceased at the time of their death.

Section 322. Application for Surviving Child Benefits

An application for benefits may be made at any time after the death of the insured person who the applicant was dependent on. Each such application must include copies of the following:

- * 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 the bona fide student status 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.

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 after an employee contributor dies and all rights to survivor insurance benefits with respect to him or her have been terminated, a lump sum benefit equal to six percent (6%) of his or her cumulative covered earnings, less the amount of the 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;

- If there is no surviving spouse or child, to the parents in equal shares;

- If there is no surviving spouse, child, or parent, to the duly appointed legal representative of the deceased;

- 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.

[Source 41 PNC § 758]

If any 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.

[Source 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.

[Source 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.

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

- Section 329. Payment to Non-citizens

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

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

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

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

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

(1)In the application process, if the Administrator determines that a non-citizen claimant who claims to be residing in the Republic but is not, in fact, residing in the Republic, the Administrator shall pay no more than six (6) months of benefits payments; or

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

[Source 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.

[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.

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PART IV. FORMS OF PROOF OR EVIDENCE

Section 401. Evidence of Entitlement

• The Administrator may at any time require a person claiming or receiving a benefit under 41 PNC to produce evidence, to the satisfaction of the Administrator, of his or her entitlement to that benefit. If evidence is not produced within a reasonable time, the Administrator may suspend payment of the benefit until the necessary evidence is produced. In the case of a minor (person under the age of eighteen (18) years of age), a requirement of evidence by the Administrator may be directed to the parent or guardian of the minor.

Source: 41 PNC § 763

Section 402. Date of Birth

• The Administrator shall base his or her determination of the date of birth upon the consideration of all available evidence presented or obtained. For the purpose of determining eligibility for benefits, record-keeping, and other purposes, the Administrator may weigh the credibility of the following documents, whose weight shall be assessed in descending order, to determine 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;
- 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, and in particular, records 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 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 mean 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 (1) a party petitioning a Court to issue a determination of death or recognize an issued certificate of death; or (2) after five (5) years the Administrator or Board may make a determination that a person is presumed dead; or (3) 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 guardians;
- 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 Administrator 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 make a determination of 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 his or her 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. In both above-mentioned matters, at no time can force be used (for example: forced signatures on documents, the use of intimidation or fear, or coercion to testify, etc.).

Judicial determination: 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

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PART V. HEARING AND APPEAL

Section 501. Matters for Determination

The Board and the Administrator may make determinations for the purpose of determining any question involving, but not limited to, any of the following Social Security matters:

- * Any right, benefit, or obligation 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; or
- * Any overpayment or underpayment of benefits;
- * Suspension of benefits pending an investigation and determination of any factual issue relating to the entitlement of the person concerned to receive such benefits, including investigations into the

cessation of a disability;

* Withholding less than the full amount of a monthly benefit to recover an overpayment;

* A determination of outstanding Social Security liabilities; and

* Date of birth, date of death, or guardianship determination.

[Source 41 PNC § 716]

Section 502. Determinations

A determination is a decision by the Board or Administrator, regarding a person's entitlement or continuing entitlement to benefits or about 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 effected 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 effected 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 ask for a reconsideration of that decision in the following manner:

(1) Within thirty (30) days of receipt of the Administrator's decision, the aggrieved person or any person who makes a showing that his or her rights may be adversely affected by the determination, may file a written request for reconsideration of that decision with the Administration and, along with that request, may provide any reasons or additional documentary evidence which would support a reversal of the original decision.

(2) 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.

(3) 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.

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

- * A statement of the time, place, and nature of the hearing;
- * A statement of the legal authority (41 PNC) and jurisdiction (ROP Constitution, 41 PNC, 6 PNC) under which the hearing is to be held;
- * A reference to the particular sections of the statutes, by-laws, and rules involved;
- * A short and plain statement of the matters asserted; and
- * The names and addresses of all parties and other persons to whom notice is being given.

(3) 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]

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****PART VI: REPORTING & PAYMENT****

****Section 601. Reports and Payment of Contributions****

Each employer is responsible under the law (41 PNC) to:

- Make reports to the Social Security Administration and pay all contributions due at the end of each

quarter using official forms provided by the Administration.

The Administration does not assume responsibility for reminding employers of this obligation.

Employers are expected to be aware of their legal responsibilities in operating a business within Palau.

Official report forms are free of charge and should include:

- Employer Identification Number (41 PNC § 747)
- Employee Contributor Social Security Number (41 PNC § 747)
- Employer's home telephone number, work telephone number, and cell phone number
- Employer's email address (if any)
- Employer's business and residential post office box

Employers assume their reports are completed on a good faith basis with truthful, diligent, and accurate records.

Reports must be signed under penalty of perjury and are subject to criminal prosecution by the Office of the Attorney General (17 PNC § 2601).

Errors or mistakes result in an administrative fee per error.

Knowingly submitting erroneous information may lead to reporting to the Office of the Attorney Generals for prosecution under 17 PNC § 2601 or other appropriate offenses.

[41 PNC § 745]

****Section 602. Quarterly Tax Reports****

All Social Security Quarterly Tax Reports must be submitted to the Administration with payment in full within a month following the end of each quarter.

Reports should indicate the payment date, receipt number, and amount actually paid.

Upon payment, the first copy of the report is submitted to the Administration, and the employer retains the second copy.

The report must include:

- Complete name of business or owner (for domestic helpers)
- 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, 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

Due dates for Quarterly Tax Reports are:

- March 31st: April 30th
- June 30th: July 31st
- September 30th: October 31st
- December 31st: January 31st

[41 PNC § 745]

****Section 603. Refunds****

Refunds are given for excess contributions when:

- An employee contributes on total remuneration exceeding the maximum remuneration of six thousand dollars (\$6,000) from October 1, 2015 (increased to eight thousand dollars (\$8,000) on October 1, 2017) from one or more employers.

Employee contributions are withheld and paid to the Administration.

Refunds are made within ninety (90) days after the date of submission.

No refund is given for amounts less than five dollars (\$5.00).

No refund is given for employer excess contributions, except to correct errors.

No refund is issued for employees with outstanding Social Security debt.

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

Self-employed individuals:

- Report twice the wages of their highest-paid employee, subject to the quarterly maximum.

- Receive a six percent (6%) refund for earnings in excess of the maximum taxable wage if reported as an employee of one or more businesses for the same quarter.

Palauan citizens:

- Contribute on total remuneration exceeding the maximum remuneration of six thousand dollars (\$6,000) on October 1, 2015 (increased to eight thousand dollars (\$8,000) on October 1, 2017).

- Employees' contributions are withheld and paid to the Administration.

Refunds are made within ninety (90) days after the date of submission.

Foreign workers:

- Eligible for a refund if they contribute on total remuneration exceeding the maximum remuneration of six thousand dollars (\$6,000) on October 1, 2015 (increased to eight thousand dollars (\$8,000) on October 1, 2017).

- Must work for the one (1) employer listed on their foreign worker permit.

Refunds are made within ninety (90) days after the date of submission.

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

Section 701. Quarterly Report Due Dates

- The due dates for the Quarterly Reports are as follows:

- March 31st: April 30th

- June 30th: July 31st

- September 30th: October 31st

- December 31st: January 31st
- Payment is to be made by the due dates. Payment is defined as cash or cash equivalent, full payment made to the Administration by the due date. Payment mailed and postmarked by the due date but not physically received until after the due date is not considered a late payment.

Section 702 Authorized Late Payment

- An employer may file their Quarterly Report on or before the due date and pay later without penalty, but interest will be assessed. The Administrator or their designee must approve the exceptional circumstances for late filing. Factors considered include:
 - Payment history of the employer
 - Number of times the employer has requested late payment
 - Employer's history of keeping promises to pay
 - Other relevant factors
- No employer will be granted more than one (1) authorized late payment in any 36-month term.
- Employers who continually file on time but pay late or continually request late payment authorization will be referred to the Administrator. The Administrator will determine appropriate action. Employers filing late without pre-approval face interest and/or penalties, as per 41 PNC § 772 (12% interest and a penalty of \$250.00 or 100% of outstanding contributions owed).

Section 703 Supplemental Reports

- No penalty is assessed for underpayments due to simple miscalculations on the employer's part. The Administration's Collections Officers will review Quarterly Reports before payment collection. If a miscalculation or error is found, the payment and receipt will be held until the employer makes complete payment if the payment was too low. If the payment was too high, the payment will be received, and the employer will be informed about the remainder being transferred to the next quarter.
- [Source: 41 PNC & SSA By-Laws]

Section 704 Collection Process

- If an employer has not timely paid any sums due under 41 PNC, the Administrator will issue a written first notice demand letter within 21 days. If payment is still not received after 21 days, a second notice demand letter will be sent within 14 days, stating that failure to comply will result in referral to the Administration's Legal Counsel or the Office of the Attorney General. If payment is still not received after 14 days, a final notice will be issued, stating the matter has been referred for legal action. The Administrator may waive or extend time-frame requirements when it makes economic sense and improves collection efficiency.
- [Source: 41 PNC § 711, § 712(d), § 724 & SSA By-Laws]

Section 705 Delinquency

- Every effort will be made to collect on any amount owed to the Administration. An employer's failure to file a Quarterly Report for 60 days past the due date will result in a delinquency. All delinquency materials will be turned over to the Administration's Legal Counsel or the Office of the Attorney General for collection and/or legal action.
- [Source: 41 PNC & SSA By-Laws]

Section 706 Interest Assessment

- Interest will be assessed in accordance with 41 PNC § 772 and cannot be waived by the Board unless exceptional circumstances or debt is to be "written off" for accounting purposes. Interest will be charged at an annual rate of 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.

- [Source: 41 PNC § 772 & By-Laws]

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 person for noncompliance with 41 PNC or these rules and procedures, which directly results in an administrative or other cost to the Administration. Examples of such administrative fees include:

- * Late fees
- * Filing or reporting fees
- * Auditing fees
- * Noncompliance fees

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

Section 802: False Statements and Reports

A person who knowingly makes a false statement or falsifies any report to or record of the Administration in an attempt to defraud the Social Security System is guilty of a misdemeanor. They may be liable for imprisonment for up to 12 months or a fine of up to \$2,000, 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 up to 100% of the amount of any contributions withheld or \$250, 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 is liable for a fine of up to \$2,000. 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 date prescribed for such payment, interest will be collected on the unpaid balance of the contribution or penalty at a rate of 12% per annum from its due date until the date it is paid. In addition, the employer shall be liable for reasonable attorney's fees and costs of collection, including court costs.

[Source: 41 PNC § 772(c)]

Section 806: Liens for Contributions

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

[Source: 41 PNC § 807]

Section 807: Front Businesses

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

- * Whether the Palauan business license holder participates in the management or operations of the business (such as 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) 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; and
- * Whether the non-citizen Manager or the Palauan business owner have been prosecuted or convicted under 28 PNC, 40 PNC, 17 PNC, or 41 PNC in the past.

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

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PART IX. ETHICS AND SECRECY

Section 901. Nonpublic Information

No employee may use information acquired in the course of 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 employee of the Administration reveals to any other person any information about an employer, an employee, or a person receiving a benefit under 41 PNC that has come to his or her knowledge by virtue of his or her employment with the Administration, that person may be found guilty of a misdemeanor and imprisonment for a period of not exceeding twelve (12) months or a fine of not more than two thousand dollars (\$2,000.00), or both. The following shall not be considered a breach of this section:

- * Disclosure of information for any function or purpose under 41 PNC;
- * Disclosure of information as required by order of a court, subpoena, or warrant;
- * Disclosure of information when there is suspected criminal activities;
- * Disclosure in cooperation with an investigation with the Ministry of Finance, the Office of the Attorney General, or any other government investigation or prosecution; or
- * Any other disclosure that is authorized by the Board. [Source: 41 PNC § 773]

Section 903. Administration Property

No employee may use Administration equipment, facilities, assets, or property for private or political use. [Source: 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 33 PNC]

Section 904. Disclosure of Interests

Each employee shall disclose, in writing, all financial interests that may be subject to 41 PNC. For 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 one thousand dollars (\$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 five hundred dollars (\$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 one thousand dollars (\$1,000.00) or more in value received

by or promised to the employee during the preceding four (4) years. [Source: 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 33 PNC]

Section 905. Conflict of Interest

(a) No employee may take, participate in taking, or use his or her 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 himself or herself on any matter because he or she is the only person authorized by law to perform the official action must disclose such interest.

(b) No employee may acquire a financial interest in any business or other undertaking which he or she has reason to believe may be directly affected by official actions to be taken unless such interest is disclosed.

(c) 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.

(d) No employee may use or attempt to use their employment or position to secure or grant privileges, exemptions, advantages, contracts, or treatment, for his or herself or others, including but not limited to the following:

- * 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.

(e) 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. [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 himself or herself 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.

Section 907. Mismanagement of Funds

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 one hundred thousand dollars (\$100,000.00) or both. [Source: 41 PNC § 774]
