

At such time as the Office of the Attorney General of Guam shall next become vacant, the Attorney General of Guam shall be appointed by the Governor of Guam with the advice and consent of the legislature, and shall serve at the pleasure of the Governor of Guam.

(2) Instead of an appointed Attorney General, the legislature may, by law, provide for the election of the Attorney General of Guam by the qualified voters of Guam in general elections after 1998 in which the Governor of Guam is elected. The term of an elected Attorney General shall be 4 years. The Attorney General may be removed by the people of Guam according to the procedures specified in section 1422d of this title or may be removed for cause in accordance with procedures established by the legislature in law. A vacancy in the office of an elected Attorney General shall be filled—

(A) by appointment by the Governor of Guam if such vacancy occurs less than 6 months before a general election for the Office of Attorney General of Guam; or

(B) by a special election held no sooner than 3 months after such vacancy occurs and no later than 6 months before a general election for Attorney General of Guam, and by appointment by the Governor of Guam pending a special election under this subparagraph.

(Aug. 1, 1950, ch. 512, §29, 64 Stat. 392; Pub. L. 99-396, §§5, 13, Aug. 27, 1986, 100 Stat. 839, 842; Pub. L. 105-291, §2, Oct. 27, 1998, 112 Stat. 2785.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105-291 added subsec. (d).

1986—Subsec. (b). Pub. L. 99-396, §13(a)(1), substituted “according to the laws of Guam” for “at such places in Guam as may be necessary”.

Pub. L. 99-396, §5, substituted “Government of Guam” for “Governor”.

Subsec. (c). Pub. L. 99-396, §13(a)(2), added subsec. (c).

§ 1421h. Duties, taxes, and fees; proceeds collected to constitute fund for benefit of Guam; prerequisites, amount, etc., remitted prior to commencement of next fiscal year

All customs duties and Federal income taxes derived from Guam, the proceeds of all taxes collected under the internal-revenue laws of the United States on articles produced in Guam and transported to the United States, its Territories, or possessions, or consumed in Guam, and the proceeds of any other taxes which may be levied by the Congress on the inhabitants of Guam (including, but not limited to, compensation paid to members of the Armed Forces and pensions paid to retired civilians and military employees of the United States, or their survivors, who are residents of, or who are domiciled in, Guam), and all quarantine, passport, immigration, and naturalization fees collected in Guam shall be covered into the treasury of Guam and held in account for the government of Guam, and shall be expended for the benefit and government of Guam in accordance with the annual budgets; except that nothing in this chapter shall be construed to apply to any tax imposed by chapter 2 or 21 of the Internal Revenue Code of 1986 [26 U.S.C. 1401 et seq., 3101 et seq.]. Beginning as soon as the government of Guam enacts legislation establishing a fiscal year commencing on

October 1 and ending on September 30, the Secretary of the Treasury, prior to the commencement of any fiscal year, shall remit to the government of Guam the amount of duties, taxes, and fees which the governor of Guam, with the concurrence of the government comptroller of Guam, has estimated will be collected in or derived from Guam under this section during the next fiscal year, except for those sums covered directly upon collection into the treasury of Guam. The Secretary of the Treasury shall deduct from or add to the amounts so remitted the difference between the amount of duties, taxes, and fees actually collected during the prior fiscal year and the amount of such duties, taxes, and fees as estimated and remitted at the beginning of that prior fiscal year, including any deductions which may be required as a result of the operation of Public Law 94-395 (90 Stat. 1199) or Public Law 88-170, as amended (82 Stat. 863).

(Aug. 1, 1950, ch. 512, §30, 64 Stat. 392; Pub. L. 86-778, title I, §103(u), Sept. 13, 1960, 74 Stat. 941; Pub. L. 95-348, §1(c), Aug. 18, 1978, 92 Stat. 488; Pub. L. 98-454, title VI, §601(h), Oct. 5, 1984, 98 Stat. 1736; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

The internal-revenue laws of the United States, referred to in text, are classified generally to Title 26, Internal Revenue Code.

Public Law 94-395 (90 Stat. 1199), referred to in text, was enacted Sept. 3, 1976, and amended section 1423a of this title.

Public Law 88-170, as amended (82 Stat. 863), referred to in text, is Pub. L. 88-170, Nov. 4, 1963, 77 Stat. 302, as amended by Pub. L. 90-511, Sept. 24, 1968, 82 Stat. 863, which is not classified to the Code.

AMENDMENTS

1986—Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1984—Pub. L. 98-454 inserted “(including, but not limited to, compensation paid to members of the Armed Forces and pensions paid to retired civilians and military employees of the United States, or their survivors, who are residents of, or who are domiciled in, Guam)” after “inhabitants of Guam” in first sentence.

1978—Pub. L. 95-348 inserted provisions relating to authorization, amount, computation, etc., of remittance, prior to commencement of any fiscal year, of duties, taxes, and fees to be collected in or derived from Guam under this section during that next fiscal year.

1960—Pub. L. 86-778 inserted clause providing that nothing in this chapter shall be construed to apply to any tax imposed by chapter 2 or 21 of title 26.

§ 1421i. Income tax

(a) Applicability of Federal laws; separate tax

The income-tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in Guam: *Provided*, That notwithstanding any other provision of law, the Legislature of Guam may levy a separate tax on all taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the Government of Guam.

(b) Guam Territorial income tax

The income-tax laws in force in Guam pursuant to subsection (a) of this section shall be deemed to impose a separate Territorial income

tax, payable to the government of Guam, which tax is designated the “Guam Territorial income tax”.

(c) Enforcement of tax

The administration and enforcement of the Guam Territorial income tax shall be performed by or under the supervision of the Governor. Any function needful to the administration and enforcement of the income-tax laws in force in Guam pursuant to subsection (a) of this section shall be performed by any officer or employee of the government of Guam duly authorized by the Governor (either directly, or indirectly by one or more redelegations of authority) to perform such function.

(d) “Income-tax laws” defined; administration and enforcement; rules and regulations

(1) The income-tax laws in force in Guam pursuant to subsection (a) of this section include but are not limited to the following provisions of the Internal Revenue Code of 1986, where not manifestly inapplicable or incompatible with the intent of this section: Subtitle A [26 U.S.C. 1 et seq.] (not including chapter 2 [26 U.S.C. 1401 et seq.] and section 931 [26 U.S.C. 931]); chapters 24 and 25 of subtitle C [26 U.S.C. 3401 et seq. and 3501 et seq.], with reference to the collection of income tax at source on wages; and all provisions of subtitle F [26 U.S.C. 6001 et seq.] which apply to the income tax, including provisions as to crimes, other offenses, and forfeitures contained in chapter 75 [26 U.S.C. 7201 et seq.]. For the period after 1950 and prior to the effective date of the repeal of any provision of the Internal Revenue Code of 1939 which corresponds to one or more of those provisions of the Internal Revenue Code of 1986 which are included in the income-tax laws in force in Guam pursuant to subsection (a) of this section, such income-tax laws include but are not limited to such provisions of the Internal Revenue Code of 1939.

(2) The Governor or his delegate shall have the same administrative and enforcement powers and remedies with regard to the Guam Territorial income tax as the Secretary of the Treasury, and other United States officials of the executive branch, have with respect to the United States income tax. Needful rules and regulations not inconsistent with the regulations prescribed under section 7654(e) of the Internal Revenue Code of 1986 [26 U.S.C. 7654(e)] for enforcement of the Guam Territorial income tax shall be prescribed by the Governor. The Governor or his delegate shall have authority to issue, from time to time, in whole or in part, the text of the income-tax laws in force in Guam pursuant to subsection (a) of this section.

(3) In applying as the Guam Territorial income tax the income-tax laws in force in Guam pursuant to subsection (a) of this section, the rate of tax under sections 871, 881, 884, 1441, 1442, 1443, 1445, and 1446 of the Internal Revenue Code of 1986 [26 U.S.C. 871, 881, 884, 1441, 1442, 1443, 1445, and 1446] on any item of income from sources within Guam shall be the same as the rate which would apply with respect to such item were Guam treated as part of the United States for purposes of the treaty obligations of the United States. The preceding sentence shall not apply to determine the rate of tax on any item of in-

come received from a Guam payor if, for any taxable year, the taxes of the Guam payor were rebated under Guam law. For purposes of this subsection, the term “Guam payor” means the person from whom the item of income would be deemed to be received for purposes of claiming treaty benefits were Guam treated as part of the United States.

(e) Substitution of terms

In applying as the Guam Territorial income tax the income-tax laws in force in Guam pursuant to subsection (a) of this section, except where it is manifestly otherwise required, the applicable provisions of the Internal Revenue Codes of 1986 and 1939, shall be read so as to substitute “Guam” for “United States”, “Governor or his delegate” for “Secretary or his delegate”, “Governor or his delegate” for “Commissioner of Internal Revenue” and “Collector of Internal Revenue”, “District Court of Guam” for “district court” and with other changes in nomenclature and other language, including the omission of inapplicable language, where necessary to effect the intent of this section.

(f) Criminal offenses; prosecution

Any act or failure to act with respect to the Guam Territorial income tax which constitutes a criminal offense under chapter 75 of subtitle F of the Internal Revenue Code of 1986 [26 U.S.C. 7201 et seq.], or the corresponding provisions of the Internal Revenue Code of 1939, as included in the income-tax laws in force in Guam pursuant to subsection (a) of this section, shall be an offense against the government of Guam and may be prosecuted in the name of the government of Guam by the appropriate officers thereof.

(g) Liens

The government of Guam shall have a lien with respect to the Guam Territorial income tax in the same manner and with the same effect, and subject to the same conditions, as the United States has a lien with respect to the United States income tax. Such lien in respect of the Guam Territorial income tax shall be enforceable in the name of and by the government of Guam. Where filing of a notice of lien is prescribed by the income-tax laws in force in Guam pursuant to subsection (a) of this section, such notice shall be filed in the Office of the Clerk of the District Court of Guam.

(h) Jurisdiction of District Court; suits for recovery or collection of taxes; payment of judgment

(1) Notwithstanding any provision of section 1424 of this title or any other provision of law to the contrary, the District Court of Guam shall have exclusive original jurisdiction over all judicial proceedings in Guam, both criminal and civil, regardless of the degree of the offense or of the amount involved, with respect to the Guam Territorial income tax.

(2) Suits for the recovery of any Guam Territorial income tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, under the income-tax laws in force in

Guam, pursuant to subsection (a) of this section, may, regardless of the amount of claim, be maintained against the government of Guam subject to the same statutory requirements as are applicable to suits for the recovery of such amounts maintained against the United States in the United States district courts with respect to the United States income tax. When any judgment against the government of Guam under this paragraph has become final, the Governor shall order the payment of such judgments out of any unencumbered funds in the treasury of Guam.

(3) Execution shall not issue against the Governor or any officer or employee of the government of Guam on a final judgment in any proceeding against him for any acts or for the recovery of money exacted by or paid to him and subsequently paid into the treasury of Guam, in performing his official duties under the income-tax laws in force in Guam pursuant to subsection (a) of this section, if the court certifies that—

(A) probable cause existed; or

(B) such officer or employee acted under the directions of the Governor or his delegate.

When such certificate has been issued, the Governor shall order the payment of such judgment out of any unencumbered funds in the treasury of Guam.

(4) A civil action for the collection of the Guam Territorial income tax, together with fines, penalties, and forfeitures, or for the recovery of any erroneous refund of such tax, may be brought in the name of and by the government of Guam in the District Court of Guam or in any district court of the United States or in any court having the jurisdiction of a district court of the United States.

(5) The jurisdiction conferred upon the District Court of Guam by this subsection shall not be subject to transfer to any other court by the legislature, notwithstanding section 1424(a) of this title.

(Aug. 1, 1950, ch. 512, §31, 64 Stat. 392; Pub. L. 85-688, §1, Aug. 20, 1958, 72 Stat. 681; Pub. L. 92-606, §1(d), Oct. 31, 1972, 86 Stat. 1497; Pub. L. 95-134, title II, §203(c), Oct. 15, 1977, 91 Stat. 1162; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 107-212, §2(a), Aug. 21, 2002, 116 Stat. 1051.)

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsecs. (d) to (f), is classified generally to Title 26, Internal Revenue Code.

The Internal Revenue Code of 1939, referred to in subsecs. (d)(1), (e), and (f), was generally repealed by section 7851 of the Internal Revenue Code of 1954, Title 26. The Internal Revenue Code of 1954 was redesignated the Internal Revenue Code of 1986 by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of Title 26, Internal Revenue Code. See also section 7852(b) of Title 26 for provision that references in any other law to a provision of the 1939 Code, unless expressly incompatible with the intent thereof, shall be deemed a reference to the corresponding provision of the 1986 Code.

Subtitle A (not including chapter 2 and section 931) and chapters 24 and 25 of subtitle C, referred to in subsec. (d)(1), and subtitle F and chapter 75, referred to in

subsecs. (d)(1) and (f), mean subtitle A (§1 et seq.), chapter 2 (§1401 et seq.) of subtitle A, chapters 24 (§3401 et seq.) and 25 (§3501 et seq.) of subtitle C, subtitle F (§6001 et seq.) and chapter 75 (§7201 et seq.) of subtitle F, respectively, of Title 26.

AMENDMENTS

2002—Subsec. (d)(3). Pub. L. 107-212 added par. (3).

1986—Subsecs. (d) to (f). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing.

1977—Subsec. (a). Pub. L. 95-134 inserted provision that the Legislature of Guam may levy a separate tax on taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the Government of Guam.

1972—Subsec. (d)(2). Pub. L. 92-606 substituted “Needful rules and regulations not inconsistent with the regulations prescribed under section 7654(e) of the Internal Revenue Code of 1954” for “Needful rules and regulations”.

1958—Subsec. (a). Pub. L. 85-688 designated existing provisions as subsec. (a).

Subsecs. (b) to (h). Pub. L. 85-688 added subsecs. (b) to (h).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-212, §2(b), Aug. 21, 2002, 116 Stat. 1051, provided that: “The amendment made by subsection (a) [amending this section] shall apply to amounts paid after the date of the enactment of the Act [Aug. 21, 2002].”

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-606 applicable with respect to taxable years beginning after Dec. 31, 1972, see section 2 of Pub. L. 92-606, set out in part as a note under section 931 of Title 26, Internal Revenue Code.

EFFECTIVE DATE

Section became effective Jan. 1, 1951, by provision of Ex. Ord. No. 10211 eff. Feb. 6, 1951, 16 F.R. 1167.

AUTHORITY OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS TO ENACT REVENUE LAWS

See section 1271 of Pub. L. 99-514, set out as a note under section 931 of Title 26, Internal Revenue Code.

RATIFICATION OF ASSESSMENTS AND COLLECTIONS MADE BEFORE AUGUST 20, 1958

Pub. L. 85-688, §2, Aug. 20, 1958, 72 Stat. 683, provided that income taxes assessed prior to Aug. 20, 1958, by the authorities of the government of Guam pursuant to, or under color of, this section, the collection of such taxes, and all acts done to effectuate such assessment and collection were legalized, ratified and confirmed as fully, to all intents and purposes, as if subsecs. (b) to (h) of this section, had then been in full force and effect.

§ 1421j. Authorization of appropriations

There are authorized to be appropriated annually by the Congress of the United States such sums as may be necessary and appropriate to carry out the provisions and purposes of this chapter.

(Aug. 1, 1950, ch. 512, §32, 64 Stat. 392.)

ELIMINATION OF GENERAL FUND DEFICITS OF GUAM AND VIRGIN ISLANDS

For authorization of appropriations for assistance to the governments of Guam and the Virgin Islands in elimination of general fund deficits, see Pub. L. 96-597, title VI, §607, Dec. 24, 1980, 94 Stat. 3483, set out as a note under section 1641 of this title.