

THE THIRTY-FIRST LEGISLATURE OF AMERICAN SAMOA

Second Regular Session

Begun and held at Fagatogo, Tutuila, American Samoa
on Monday, the thirteenth day of July
two thousand and nine

AN ACT TO CREATE TAX PARITY BETWEEN THE TERRITORIES OF THE UNITED STATES AND THE 50 STATES OF THE UNITED STATES; AMENDING SECTIONS 11.0403, 11.0509 AND 11.0516 A.S.C.A.; AND CREATING NEW SECTIONS 11.0535, 11.0536 AND 11.0537 A.S.C.A.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 11.0403 is amended to read:

“11.0403 Imposition of tax—Citation.

(a) The income tax and the income tax rules in force in the United States of America in effect on December 31, 2000, where not clearly inapplicable or incompatible with the intent of this section, are adopted by American Samoa, and shall be deemed to impose a separate Territorial income tax, payable to the government. These laws include, but are not limited to, the following provisions of the United States Internal Revenue Code of 1954: subtitle A; chapters 24 and 25 of subtitle C, with reference to the collection of income tax at source on wages; and all provisions of subtitle F which apply to the income tax, including provisions as to crimes, other offenses and forfeitures contained in chapter 75.

(b) For reference purposes, this chapter and chapter 11.05, and all provisions of the United States Internal Revenue Code of 1954 adopted by reference in subsection (a), may be cited as the “Samoan Income Tax Act”.

(c) In the event of a conflict between the provisions of the US Internal Revenue Code as adopted from time to time and the provisions of Title 11 Chapter 05 of the American Samoa Code Annotated, the provisions of Title 11 Chapter 05 shall take precedence.”

Sec 2. 11.0509 is amended to read:

“11.0509 Section 881(a)(1) amended.

Section 881 (a)(1) relating to the imposition of tax on income of foreign corporations not connected with American Samoa business is amended by

inserting after the word "dividends" the following: "(other than dividends paid by a corporation organized under the laws of one of the states or territories of the United States to a corporation organized under the laws of one of the states or territories of the United States)"."

Sec 3. 11.0516 is amended to read:
"11.0516 Section 1441(b) amended.

Section 1441(b) relating to withholding of income tax is amended by inserting after the word "dividends" the following: "(other than dividends paid by a corporation organized under the laws of one of the states or territories of the United States to a corporation organized under the laws of one of the states or territories of the United States)"."

Sec 4. There is created a section 11.0535 which reads:
"11.0535 Section 876 amended.

Section 876 relating to alien residents of Guam, Puerto Rico, the Northern Marianas Islands and the United States is amended to read:

(a) Alien individuals. This subpart shall not apply to any alien individual who is a bona fide resident of Puerto Rico, Guam, the Northern Mariana Islands, or the United States during the entire taxable year and such alien shall be subject to the tax imposed by section 1.

(b) Foreign corporations. Sections 881, 884 and 1442 shall not apply to corporations formed in the United States, any of the 50 states or any territory of the United States."

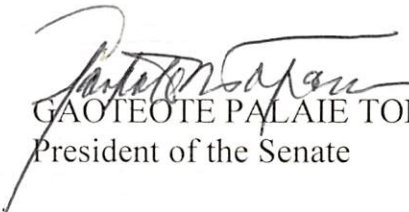
Sec 5. There is created a section 11.0536 which reads:


"11.0536 Section 1442(c) deleted.


Section 1442(c) relating to corporations formed in Guam and other territories is deleted."

Sec 6. There is created a section 11.0537 which reads:
"11.0537 Section 881(b) deleted.

Section 881(b) relating to corporations formed in Guam and other territories is deleted."


GAOTEOTE PALAIE TOFAU
President of the Senate


SAVALI TALAVOU ALE
Speaker, House of Representatives

Hereby Approved this day of Oct. 20 09

Governor Of American Samoa

NOFOAIGA TOLUSEFULU-TASI FONOFAITULAFONO A AMERIKA SAMOA

Fono Tele Lona lua

Nofoaia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso sefulutolu o Iulai
lua afe ma le iva

O SE TULAFONO E FAAVAEINA AI LAFOGA TUTUSA I LE VA O
TERITORI O LE IUNAITE SETETE MA SETETE E 50; SUIA AI LE MAGA
11.0403, 110509 MA 11.0516 T.T.A.S.; MA FAAVAEINA AI MAGA FOU
11.0535, 110536 MA LE 11.0537 T.T.A.S.

IA FAATULAFONOINA E LE FONOFAITULAFONO A AMERIKA SAMOA:

Maga 1. 11.0403 ua suia e faitauina faapea:

“11.0403 Faaceina o lafoga – Faasinomaga.

(a) O le lafoga o tupe maua ma tulafono tau lafoga o tupe maua o lo’o faaaogaina i le Iunaite Setete o Amerika lea na aloa’ia ia Tesema 31, 2000, i vaega e le o ma’oti lelei mai sona le tatau ai pe le talafeagai ai foi ma le mana’oga o lenei maga, ua faaaogaina e Amerika Samoa, ma e talitonuina o le a faaee ai se isi lafoga o tupe maua e ese mai ai a le Teritori, e totogi atu i le malo. O nei tulafono e aofia ai, ae le faatapulaa ai, aiaiga nei o le Tulafono o Tupemaua Faalelotoifale (IRS) a le Iunaite Setete o le 1954; soaulutala A; mataupu 24 ma le 25 o le soaulutala I, e faatatau i le aoina o lafoga mai totogi o tagata faigaluega; ma aiaiga uma o le soaulutala F e faatatau i lafoga o tupe maua, e aofia ai aiaiga e faatatau i solitulafono, o isi lava moliaga ma isi faasalaga o loo i totonu o le mataupu 75.

(e) Mo ala o faamaumauga/faasinomaga, o lenei mataupu ma le mataupu 11.05, ma aiaiga uma o Tulafono o Tupemaua Faalotoifale a le Iunaite Setete o le 1954 o loo faaaogaina e ala i le faasinomaga o loo i le soamaga (a), e mafai ona ta’ua aloa’ia lena o le “Tulafono o Lafoga o Tupe maua a Samoa”.

(i) I le tulaga o se feeseesea’iga i le va o aiaiga o Tusi Tulafono a le Vaega o Tupe Maua a le Iunaite Setete (IRS) e pei ona faaaogaina mai lea taimi i lea taimi faatasi ma aiaiga o le Ulutala 11 Mataupu 05 o le Tusi Tulafono a Amerika Samoa, o le a faaaogaina aiaiga o le tulafono lea a Amerika Samoa.

Maga 2. 11.0509 ua suia e faitauina faapea:

“11.0509 Maga 881(a)(1) suia.

Maga 881 (a)(1) e faatatau i le faaeeina o lafoga o tupe maua a kamupani mai fafo e leai se sootaga ma pisinisi a Amerika Samoa ua suia e ala i le tuuina i totonu pe a mae’a le upu “tupe vaevae” o upu nei: “(e ese mai ai i tupe vaevae e totogi atu e se kamupani na faatuina i lalo o tulafono a se setete poo teritori o le Iunaite Setete i se kamupani e faatuina i lalo o tulafono a se tasi o setete poo teritori o le Iunaite Setete).”

Maga 3. 11.0516 ua suia e faitauina faapea:

“11.0516 Maga 1441(e) suia.

Maga 1441(e) faatatau i le taofia o lafoga o tupe maua ua suia e ala i le tuuina i totonu pe a mae’a le upu “tupe vaevae” o upu nei:“(e ese mai ai i tupe vaevae e totogi atu e se kamupani na tuuina i lalo o tulafono a se setete poo teritori o le Iunaite Setete i se kamupani e faatuina i lalo o tulafono a se tasi o setete poo teritori o le Iunaite Setete).”

Maga 4. O lea ua faavaeina nei se maga 11.0535 e faitauina faapea:

“11.0535 Maga 876 suia.

Maga 876 e faatatau i tagata mai fafo ua nofo mau i Guam, Puerto Rico, le Atu Mariana i Matu ma le Iunaite Setete ua suia e faitauina faapea:

(a) Tagata mai fafo taitoatasi. O lenei soavaega o le a le faasino mo se tagata mai fafo ua nofo mau i Puerto Rico, Guam, le Atu Mariana i Matu, poo le Iunaite Setete i le taimi atoa o le tausaga faalafoga ma o lea tagata o le a faasino i le lafoga o loo faaee i le maga 1.

(e) O kamupani mai fafo. Maga 881, 884 ma le 1442 o le a le faaaogaina i kamupani na faatuina i totonu o le Iunaite Setete, i soo se setete o setete e 50 poo soo se teritori o le Iunaite Setete.”

Maga 5. Ua faavaeina nei se maga 11.0536 e faitauina faapea:

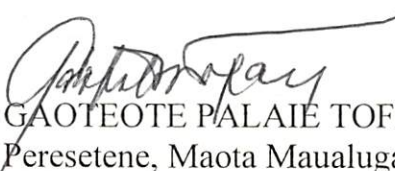
“11.0536 Maga 1442(i) soloia.


Maga 1442(i) faatatau i kamupani ua faatuina i totonu o Guam ma isi teritori ua soloia.”

Maga 6. Ua faavaeina nei se maga 11.0537 e faitauina faapea:

“11.0537 Maga 881(e) soloia.

Maga 881(e) faatatau i kamupani ua faatuina i totonu o Guam ma isi teritori ua soloia.”


GAOTEOTE PALAIE TOFAU
Peresetene, Maota Maua luga


SAVALI TALAVOU ALE
Fofoga Fetalai, Maota o Sui

Hereby Approved this day of Oct. 20 09

Governor Of American Samoa