

Public Law 85-688

AN ACT

To amend section 31 of the Organic Act of Guam, and for other purposes.

August 20, 1958
[H. R. 12569]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 31 of the Organic Act of Guam (64 Stat. 384, 392; 48 U. S. C., 1952 edition, sec. 1421i), is amended to read as follows:

Guam,
Federal income
tax applicability.

“(a) 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.

Territorial in-
come tax.

“(b) 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’.

Enforcement of
tax.

“(c) 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.

68A Stat.

“(d) (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 1954, where not manifestly inapplicable or incompatible with the intent of this section: Subtitle A (not including chapter 2 and section 931); 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. 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 1954 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.

68A Stat. 455,
471, 731, 851.

“(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 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.

53 Stat. 1-504.

“(e) 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 1954 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.

68A Stat.

Rules for en-
forcement.

Prosecution of
criminal offenses.

68A Stat. 851.

Liens.

Jurisdiction of
District Court.

Taxes illegally
collected.

“(f) 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 1954, 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) 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) (1) Notwithstanding any provision of section 22 of this Act 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.

Civil actions.

“(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 22 (a) of this Act.”

SEC. 2. Income taxes heretofore assessed by the authorities of the government of Guam pursuant to, or under color of, section 31 of the Organic Act of Guam, the collection of such taxes, and all acts done to effectuate such assessment and collection are hereby legalized, ratified and confirmed as fully, to all intents and purposes, as if section 1 of this Act (subsections (b) to (g), inclusive, of which are hereby declared to express the true intent of said section 31 as it was prior to enactment of this Act) had then been in full force and effect: *Provided*, That if it shall be judicially determined that, except for the enactment of this Act, an assessment or collection of such taxes or an act done or required to be done in order to effectuate such assessment and collection would not, in the particular circumstances of the case, have been lawful under said section 31 as it was prior to enactment of this Act, no penalty shall be imposed for failure to have made timely payment of such taxes or to have complied at the prescribed time with a requirement intended to effectuate the assessment and collection thereof, but such penalty shall be imposed for any failure to make payment or to comply which continues more than sixty days from the date of this Act.

Assessment and
collection legalized.
64 Stat. 392.
48 USC 142ii.

Approved August 20, 1958.

Public Law 85-689

AN ACT

To amend title 28 of the United States Code to provide that notice of an action with respect to real property pending before a United States district court must be recorded in certain instances in order to provide constructive notice of such action.

August 20, 1958
[H. R. 7306]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 125 of title 28 of the United States Code is amended by adding at the end thereof the following new section:

District courts.
Real property.

“§ 1964. Constructive notice of pending actions

Notice of actions.

“Where the law of a State requires a notice of an action concerning real property pending in a court of the State to be registered, recorded, docketed, or indexed in a particular manner, or in a certain office or county or parish in order to give constructive notice of the action as it relates to the real property, and such law authorizes a notice of an action concerning real property pending in a United States district court to be registered, recorded, docketed, or indexed in the same manner, or in the same place, those requirements of the State law must be complied with in order to give constructive notice of such an action pending in a United States district court as it relates to real property in such State.”

(b) The heading of such chapter 125 is amended to read as follows:

“CHAPTER 125—PENDING ACTIONS AND JUDGMENTS”

(c) The analysis of such chapter 125 is amended by adding at the end thereof the following:

28 U.S.C. prec.
1961.

“1964. Constructive notice of pending actions.”

SEC. 2. The amendments made by this Act shall only be effective with respect to actions commenced in United States district courts more than one hundred and eighty days after the date of enactment of this Act.

Effectivity.

Approved August 20, 1958.