

REGULATION

REGARDING OWNERSHIP INFORMATION

REQUIREMENTS

(1) Authority.

This regulation is issued according to the authority of the Secretary of the Department of Finance and Administration under section 609 of Title 54 of the FSM Code (Annotated), which provides that the Secretary has the power to adopt new regulation prescribing rules for the convenient implementation and enforcement of the provisions of this chapter.

(2) Section 2 of the Regulation is hereby amended to read as follows:

“2. Definitions.

(a) Terms defined in the Act shall have the same meaning when used herein except where otherwise expressly stated or required by the context.

(b) Definitions contained in the Act are hereby added to as follows:

(1) "Beneficial owners" is the natural person(s) who ultimately owns or controls a legal person or arrangement. It also includes those persons who exercise ultimate effective control over a legal person or arrangement. Reference to ultimate ownership or control and ultimate effective control refer to situations in which ownership/control is exercised through a chain of ownership or by means of control other than direct control.

i. With respect to legal persons, the following rules shall apply in determining the beneficial ownership:

1. The identity of the natural persons (if any – as ownership interests can be so diversified that there are no natural persons, whether acting alone or together, exercising control of the legal person or arrangement through ownership) who ultimately have a controlling ownership interest in a legal person. A person has a controlling ownership interest in a legal person if it has direct or indirect ownership or control over more than 25% of the shares or voting rights in that legal person; and
2. To the extent that there is doubt under 2(b)(1)i.1 as to whether the person(s) with the controlling ownership interest are the beneficial owner(s) or where no natural person exerts control through ownership interests, the identity of the natural persons (if any) exercising control of the legal person or arrangement through other means.
3. Where no natural person is identified under 2(b)(1)i.1 or 2(b)(1)i.2 above, the identity of the relevant natural person who holds the position of senior managing official.

ii. With respect to legal arrangements, the following rules shall apply in determining the beneficial ownership:

1. For trusts, the identity of the settlor(s), the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust (including through a chain of

control/ownership);

2. For other types of legal arrangements, the identity of persons in equivalent or similar positions.

(2) "Small Business" means a business or entity with annual revenues and assets less than \$100,000."

(3) Section 3 of the Regulation is hereby amended to read as follows:

"3. Guidelines regarding "ownership and identity information".

- b. §603(1) of Title 54 requires that every business or entity shall provide complete ownership and identity information to the Customs and Tax Administration on or before January 31 each year.
- c. Businesses or entities are required to keep, maintain and provide to the Customs and Tax Administration:
 - (1) For companies, including major corporations, as defined in section 312 of title 54 of the Code of the Federated States of Micronesia (Annotated) the:
 - i. Identity of the shareholders or other persons (natural persons, legal entities created by fiction of law, for example, a corporation, or arrangements) having legal ownership of the company; and
 - ii. Identity of the natural person or natural persons who are beneficial owners of the company.
 - (2) For trusts, the:
 - i. Identity of the settlors;
 - ii. Identity of the trustees;
 - iii. Identity of the beneficiaries or class of beneficiaries;
 - iv. Identity of the protector (if any); and
 - v. Identity of the natural person or natural persons who are beneficial owners of the trust.
 - (3) For sole proprietorships, partnerships, cooperatives, associations, or any other type of business or entity, the:
 - i. Identity of the owner, partners, members, or other persons having legal ownership of the business or entity; and
 - ii. Identity of the natural person or natural persons who are beneficial owners of the business or entity;
- d. The information enumerated in paragraph 3.b. shall be contained and disclosed upon filing of the Business Gross Revenue Tax Quarterly Return (FSM FORM 1119) for the fourth quarter (October to December) of each year, or upon filing of the Corporate Income Tax Return (CIT Schedule 1) each year, unless an exemption has been approved pursuant to section 603(2) of Title 54.
- e. Paragraph 3.c. shall not apply to small businesses. Small businesses are required to maintain at their principal place of business full records containing ownership and identity information, as enumerated in paragraph 3.b.
- f. Businesses and entities shall obtain and hold up-to-date information on their beneficial ownership as required in this regulation. The required information should be kept for at least five years after the end of the period to which it relates. The five-year retention period runs regardless of whether the business or entity continues to exist.
- g. Upon discovery of deficiency of information on beneficial ownership,

such deficiency shall be corrected immediately. It is a responsibility of the business or entity to take immediate steps to correct deficiency of information. In the event of violation, the Secretary of the Department of Finance and Administration shall take action to demand compliance and/or impose the penalties under sections 607 and 608 to title 54 of the FSM Code.

- h. The identity information required to be provided to the Customs and Tax Administration on or before January 31 each year, or maintained by small businesses, enumerated in paragraph 3.b. must contain the full name, current private address and the date of birth of all identified persons.
- i. The Secretary of the Department of Finance and Administration may require further information from a business or entity with respect to beneficial ownership. A business or entity so required shall have 30 days to produce additional information as required. In the event of violation, the Secretary shall take action to demand compliance and/or impose the penalties under sections 607 and 608 to title 54 of the FSM Code.

NOTICE OF PROPOSED REGULATION

UNDER THE MANDATE OF THE SECRETARY OF FINANCE

Pursuant to the authority vested in me as Secretary of Finance, I am proposing the enclosed proposed regulation on the Ownership Information Requirements regulation according to the authority under Section 609 Title 54 of the Code of the Federated States of Micronesia (Annotated) based upon the procedures set forth in Chapter 1 of Title 17 of the FSM Code (Administrative Procedures Act).

Extra copies of the proposed regulation can be obtained from the office of the Secretary of Finance in Palikir, Pohnpei. Any person interested in commenting on the proposed regulation may do so by written submission to:

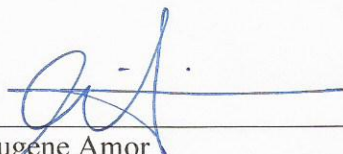
Secretary Eugene Amor
Secretary of FSM Finance
P.O. Box PS-54, Palikir, Pohnpei
Federated States of Micronesia 96941

All written submissions must be received by the Secretary of Finance within thirty (30) days of the posting of this notice, or no later than January 23, 2020.

This proposed regulation shall take effect on the fortieth day from the date of its posting. Persons affected should assume that this proposed regulation became effective on that date unless they learn otherwise. The actual date of effectiveness will be noted on the certified copy of the permanent regulation to be filed pursuant to 17 F.S.M.C. §103(1).


The proposed effective date of these regulations shall be on February 2, 2020 (40 days from the date of this posting).

Date: 12/23/19


Eugene Amor
Secretary of Finance

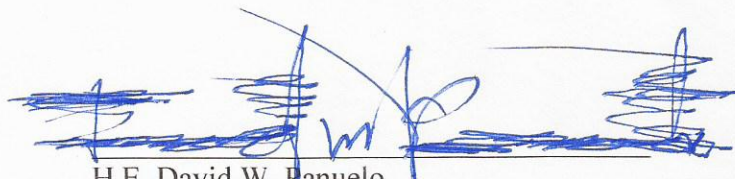
Approved as to legal sufficiency:

Date: 12/23/19


Jose R. Gallen, Sr.
Secretary of Department of Justice

Approved by the President:

Date: 12/24/19


H.E. David W. Panuelo
FSM President