



OFFICE OF THE GOVERNOR
HAGATÑA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 2004- 23

RELATIVE TO ESTABLISHING AN OFFICE OF THE TAXPAYER
ADVOCATE ON AN INTERIM BASIS UNDER THE DEPARTMENT OF
REVENUE AND TAXATION

WHEREAS, the Organic Act of Guam provides that the income tax laws in force in the United States are "held to be likewise in force in Guam" *see* 48 U.S.C. § 1421i(a); and

WHEREAS, the Organic Act of Guam provides that, "where not manifestly inapplicable or incompatible" the income tax laws in force in Guam include "all provisions of subtitle F" of the Internal Revenue Code *see* 48 U.S.C. § 1421i(d)(1); and

WHEREAS, included within subtitle F of the Internal Revenue Code is § 6212(a) that requires that a Notice of Deficiency include contact information for the local office of the taxpayer advocate *see* 26 U.S.C. § 6212(a); and

WHEREAS, the establishment of the Office of the Taxpayer Advocate is required in order to comply with 26 U.S.C. § 6212(a) as it applies to Guam through the Organic Act of Guam.

NOW, THEREFORE, I, FELIX P. CAMACHO, *I Maga'låhen Guåhan*, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do hereby order:

1. **The Office of the Taxpayer Advocate.** The Office of the Taxpayer Advocate is established on an interim basis under the Department of Revenue and Taxation.

2. **National Taxpayer Advocate.**

(a) **In General.** The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the "National Taxpayer Advocate". The National Taxpayer Advocate shall report directly to the Director of the Department of Revenue and Taxation and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Director so determines, at a rate fixed under section 9503 of such title. The National Taxpayer Advocate may be a part-time position.

(b) **Appointment.** The National Taxpayer Advocate shall be appointed by the Director of the Department of Revenue and Taxation after consultation with the Governor of Guam.

(c) **Qualifications.** An individual appointed under clause (b) shall have

- (i) a background in customer service as well as tax law; and
- (ii) experience in representing individual taxpayers.

(d) **Restriction on Employment.** An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Department of Revenue and Taxation during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Department of Revenue and



Taxation for at least 5 years after ceasing to be the National Taxpayer Advocate. Service as an officer or employee of the Office of the Taxpayer Advocate shall not be taken into account in applying this clause.

3. **Functions of Office.** It shall be the function of the Office of the Taxpayer Advocate to

- (a) assist taxpayers in resolving problems with the Department of Revenue and Taxation;
- (b) identify areas in which taxpayers have problems in dealings with the Department of Revenue and Taxation;
- (c) to the extent possible, propose changes in the administrative practices of the Department of Revenue and Taxation to mitigate problems identified under clause (b); and
- (d) identify potential legislative changes which may be appropriate to mitigate such problems.

4. **Annual Reports.**

- (a) **Objectives.** Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. The report shall contain full and substantive analysis, in addition to statistical information.
- (b) **Activities.** Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall:
 - (i) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and the Department of Revenue and Taxation's responsiveness;
 - (ii) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811 of the Internal Revenue Code;
 - (iii) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems;
 - (iv) contain an inventory of the items described in clauses (a), (b), and (c) for which action has been taken and the result of such action;
 - (v) contain an inventory of the items described in (a), (b), and (c) for which action remains to be completed and the period during which each item has remained on such inventory;
 - (vi) contain an inventory of the items described in (a), (b), and (c) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Revenue and Taxation official who is responsible for such inaction;



(vii) identify any Taxpayer Assistance Order which was not honored by the Department of Revenue and Taxation in a timely manner as specified under section 7811(b) of the Internal Revenue Code;

(viii) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers;

(ix) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Department of Revenue and Taxation, including specific recommendations for remedying these problems;

(x) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes; and

(xi) include such other information as the National Taxpayer Advocate may deem advisable.

(c) **Report to be Submitted Directly.** Each report required under this subparagraph shall be provided directly to the committees described in clause (a) without any prior review or comment from the Director of the Department of Revenue and Taxation or any other officer or employee of the Department of Revenue and Taxation.

5. **Other Responsibilities.**

(a) Develop guidance to be distributed to all employees of the Department of Revenue and Taxation outlining the criteria for referral of taxpayer inquiries to the Office of the Taxpayer Advocate.

(b) Ensure that the telephone number for the Office of the Taxpayer Advocate is published and available to taxpayers served by the office.

6. **Consultation.** The National Taxpayer Advocate may consult with the appropriate supervisory personnel of the Department of Revenue and Taxation in carrying out the National Taxpayer Advocate's responsibilities.

7. **Responsibilities of the Director.** The Director shall establish procedures requiring a formal response to all recommendations submitted to the Director by the National Taxpayer Advocate within three months after submission to the Director.

8. **Office Operation.**

(a) The National Taxpayer Advocate may consult with the appropriate supervisory personnel of the Department of Revenue and Taxation regarding the daily operation of the local office of the taxpayer advocate.

(b) At the initial meeting with any taxpayer seeking the assistance of the Office of the Taxpayer Advocate, the Office of the Taxpayer Advocate shall notify such taxpayer that the taxpayer advocate office operates independently from the Department of Revenue and Taxation and that the advocate reports directly to the Congress through the National Taxpayer Advocate.

(c) The Office of the Taxpayer Advocate may at their direction, not disclose to the Department of Revenue and Taxation contact with, or information provided by, such taxpayer.



9. **Maintenance of Independent Communications.** The Office of the Taxpayer Advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

This Executive Order will expire once subsequent legislation establishes the Office of the Taxpayer Advocate.

SIGNED AND PROMULGATED at Hagåtña, Guam this 5th day of **October 2004**.

A handwritten signature in cursive script, appearing to read "F. Camacho".

FELIX P. CAMACHO
I Maga' lähen Guåhan
Governor of Guam

COUNTERSIGNED:

A handwritten signature in cursive script, appearing to read "K. Moylan".

KALEO S. MOYLAN
Segundo Maga' lähen Guåhan
Lieutenant Governor of Guam

