



AMERICAN SAMOA GOVERNMENT
PAGO PAGO, AMERICAN SAMOA 96799

In reply refer to:

LEGISLATURE OF AMERICAN SAMOA

C E R T I F I C A T I O N

House Chamber
May 28, 1991

I certify that House Bill No. 22-112 passed third reading on this date in the House of Representatives during its Second Special Session of the Twenty-second Legislature of American Samoa.

A handwritten signature in dark ink, appearing to read 'Wally F. Utu', is written over the typed name.

WALLY F. UTU
Chief Clerk
House of Representatives

Senate Chamber
May 31, 1991

I certify that House Bill No. 22-112 passed third reading on this date in the Senate during its Second Special Session of the Twenty-second Legislature of American Samoa.

A handwritten signature in dark ink, appearing to read 'Leo' O Va'a Ma'o', is written over the typed name.

LEO'O VA'A MA'O
Secretary of the Senate

THE TWENTY-SECOND LEGISLATURE OF AMERICAN SAMOA

Second Special Session

**Bégun and held at Fagatogo, Tutuila, American Samoa
on Wednesday, the twenty-second day of May
one thousand nine hundred and ninety one**

**AN ACT DEFINING SOME OF THE TERMS AND MAKING TECHNICAL
CORRECTIONS TO THE CORPORATE INCOME TAX LAW; AMENDING SECTION
11.0414 ASCA.**

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 11.0414 is amended to read:

"11.0414 Notification and assessment of Samoan income tax in the case of adjustments to United States income tax of corporation.

(a) In the case of a taxpayer that is a corporation that has engaged in a trade or business in American Samoa during a taxable year, such taxpayer (or its successor) shall report to the treasurer of American Samoa any change or correction by the Commissioner of Internal Revenue with respect to any item of gross income, deduction, credit, or allowance as reported for such taxable year (or for a taxable year of a person described in paragraph (2) that includes such taxable year) on the United States income tax return of:

- (1) the taxpayer, or
- (2) any person who is related (within the meaning of section 482 of the United States Internal Revenue Code) to the taxpayer,

that is attributable or otherwise related to the carrying on by the taxpayer of such trade or business in American Samoa or to the purchase, sale, lease, or other transfer of goods, services, or property or other transactions between related persons and the taxpayer in

carrying on its trade or business in American Samoa. For purposes of this section, the category of items of gross income, deduction, credit, or allowance of the taxpayer or a related person that are treated as otherwise related to the carrying on by the taxpayer of its trade or business in American Samoa or to transactions between related persons and the taxpayer in carrying on its trade or business in American Samoa shall include an item that arises out of one or more transactions involving substantially comparable goods, services, or other property undertaken between related persons and the taxpayer in carrying on a trade or business outside of American Samoa. The taxpayer shall make such report to the treasurer of American Samoa within ninety days after the final determination of such change or correction. The taxpayer shall concede the accuracy of such determination or state wherein it is erroneous. In the event that the taxpayer or any related person files an amended United States income tax return for any taxable year with respect to any item of gross income, deduction, credit, or allowance that is attributable or otherwise related to the carrying on by the taxpayer of a trade or business in American Samoa or to the purchase, sale, lease, or other transfer of goods, services, or property or other transactions between related persons and the taxpayer in carrying on its trade or business in American Samoa, the taxpayer (or its successor) shall file within ninety days thereafter a copy of such amended United States income tax return with the treasurer of American Samoa and shall provide such additional information as the treasurer of American Samoa may require. The treasurer of American Samoa is not required to accept as correct for Samoan income tax purposes any such change or correction by the Commissioner of Internal Revenue or amended United States income tax return and may conduct an independent audit or investigation with respect thereto. The treasurer of American Samoa shall determine whether the assessment of additional Samoan income tax is appropriate under the provisions of the Samoan Income Tax Act in respect of the taxable year or years to which the report required under this subsection or the amended United States income tax return relates.

(b) Upon the making by the taxpayer of the report required under subsection (a), or the filing of the copy of the amended return as described in subsection (a), the treasurer of American Samoa shall have, notwithstanding any provision of the ~~United States Internal Revenue Code~~ Samoan Income Tax Act to the contrary, a period of two years following the date upon which the taxpayer makes the report required under subsection (a), or files such copy of the amended return, within which to assess upon the taxpayer such additional Samoan income tax, if any, as is appropriate under the provisions of the Samoan Income Tax Act in respect of the taxable year or years to which such report or amended return relates. The provisions of this subsection shall not affect the time within which or the amount for which an assessment otherwise may be made by the treasurer of American Samoa.

(c) In the event that a taxpayer fails to report a change or correction by the Commissioner of Internal Revenue, or fails to file the copy of the amended return, as and when required by subsection (a) hereof, the assessment of additional Samoan income tax by the treasurer of American Samoa may be made at any time, notwithstanding any provision of the ~~United States Internal Revenue Code~~ Samoan Income Tax Act to the contrary.

(d) For purposes of this section:

(1) The term "report" shall include, but not be limited to, the taxpayer's name, address, and identifying number, the taxable year or years that are affected by the change or correction described in subsection (a), a listing of the names, addresses, and identifying numbers of any related persons involved in the change or correction, a description and listing of the dollar amounts of such change or correction, a copy of the final determination of such change or correction, and such other information as the treasurer of American Samoa may prescribe.

(2) The term "final determination" shall include:

(A) the issuance of a 90-day notice of deficiency pursuant to sections 6211 and 6212 (or a jeopardy assessment pursuant to section 6861) of the United States Internal Revenue Code, unless a timely petition to redetermine the deficiency is filed in the United States Tax Court in which case the judgment of a court of last resort affirming or redetermining such deficiency is deemed to constitute the final determination;

(B) the assessment of a deficiency pursuant to a waiver filed under section 6212 of the United States Internal Revenue Code in the case where no 90-day notice of deficiency is issued;

(C) a closing agreement made under section 7121 of the United States Internal Revenue Code or similar agreement in compromise executed by the Commissioner of Internal Revenue and the taxpayer or related person; and

(D) an allowance by the Commissioner of Internal Revenue, or by a court of competent jurisdiction in a final judgment, of a refund of any part of the United States income tax shown on the United States income tax return of the taxpayer or related person or of any deficiency thereafter assessed.

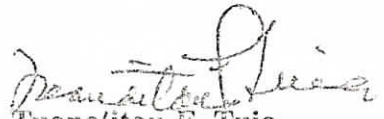
(b)(e)(1) This section 11.0414 shall apply to taxable years ending after 1980 as to which a final determination (within the meaning of this section) by the Commissioner of Internal Revenue or the filing of an amended United States income tax return with the Commissioner of Internal Revenue is made after December 31, 1989.

(2) The amendments made by this act shall be effective as if included in section 11.0414, as originally enacted, of the American Samoa Code Annotated and shall apply to taxable years ending after 1980 as to which a final determination (within the meaning of this act section 11.0414(a) of the American Samoa Code Annotated) by the Commissioner of Internal Revenue or the filing of an amended United States income tax return with the

Commissioner of Internal Revenue is made after December 31, 1989; provided that in the case of a final determination or the filing of an amended United States income tax return that has been made during the period prior to the date of enactment of this act, the ninety-day period described in section 11.0414(a) of the American Samoa Code Annotated within which the taxpayer is to make its report to the treasurer of American Samoa shall be treated as commencing on the date of enactment of this act and the two-year period described in section 11.0414(b) of such Code within which the treasurer of American Samoa may assess additional Samoan income tax upon the making of such report by the taxpayer shall be treated as commencing on the date on which the taxpayer files such report during the period following the date of enactment of this act."



Letuli Teloa
PRESIDENT OF THE SENATE



Tuana'itau F. Tuia
SPEAKER OF THE HOUSE

Hereby Approved this 20th day of June, 19 91



Governor of American Samoa

NOFOAIGA LUASEFULU-LUA FONOFAITULAFONO O AMERIKA SAMOA

Fono Fa'apitoa Lona-Lua

**Nofioia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Lulu, aso luasefulu-lua o Me
tasi le afe iva selau iva sefulu tasi**

**O SE TULAFONO E FA'AMALAMALAMA AI NISI UPU MA FAIA ISI FA'ASA'OGA TAU
I LE TULAFONO O LAFOGA O TUPE MAUA A PISINISI TETELE; SUIA AI LE MAGA
11.0414 TFAS.**

IA FA'ATULAFONOINA E LE FONOFAITULAFONO O AMERIKA SAMOA:

Maga 1. 11.0414 ua suia e faitauina:

"11.0414 Fa'aaliga ma le fa'ae'eina o lafoga totogi Samoa i le tulaga fetu'unaiga i lafoga o totogi Iunaite Setete o pisinisi pulea tele.

(a) I le tulaga o se tagata fai lafoga o se pisinisi pulea tele o lo'o faia ni galuega fefa'atauaiga po'o pisinisi i Amerika Samoa i se tausaga fa'alafogaina, o lea tagata failafoga (po'o lona sui) ia ripotia i le teutupe o Amerika Samoa so'o se suiga po'o fa'asaoga e le Komesina o Lafoga e tusa ma so'o se mea o tupe maua atoa, tupe toesea mai, togi, po'o se tupe fa'aaoga e pei ona ripotia mo lea tausaga fa'alafogaina (po'o se tausaga lafoga a se tagata ua fa'amatalaina i le parakalafa (2) e aofia ai lea tausaga fa'alafogaina) i le fa'afo'i o lafoga o totogi a le Iunaite Setete e:

- (1) le tagata failafoga, po'o
- (2) so'o se tagata e iai se faia (i le uiga o le maga 482 o le Tulafono o Lafoga a le Iunaite Setete) i le tagata failafoga,

e fa'asino pe iai se faia i le faia pea e le tagata failafoga o lea fefa'atauaiga po'o pisinisi i Amerika Samoa po'o le mea e fa'atau mai, fa'atau atu, lisi, po'o isi fesi'itaiga o oloa, galuega, po'o meatotino po'o isi galuega i le va o tagata e aofia ai ma le tagata failafoga i le fa'ataunu'uina o fefa'atauaiga po'o pisinisi i Amerika Samoa. Mo manaoga o lenei maga, o

le vaega o mea ta'itasi ua aofia i le atoa o tupe maua, fa'aitiitiga, kereti, po'o fa'agafuaga mo le tagata fai lafoga po'o se tasi la te aiga, ua taualoa fa'apea e a'afia i le faiga o le pisinisi o le tagata fai lafoga i totonu o Amerika Samoa, po'o fefa'atauaiga i le va o tagata e aiga ma le tagata fai lafoga i le fa'agaioiga o lana pisinisi i totonu o Amerika Samoa o le a aofia ai se aofaiga o se tupe ua maua mai se po'o ni fefa'atauaiga e a'afia ai oloa e tai foliga tutusa, po'o tautua fa'apisinisi, po'o nisi mea totino ua faia i le va o tagata e aiga ma le tagata fai lafoga i le tauaveina o se fefa'atauaiga po'o se pisinisi i fafo atu o Amerika Samoa. O le tagata failafoga ia faia lea ripoti i le teutupe o Amerika Samoa i le ivasefulu aso pe a uma le fuafuaga mulimuli o lea suiga po'o fa'asaoga. O le tagata failafoga ia gaua'i i le tonu o lea fuafuaga pe fa'ailoa mai se tulaga e le sa'o. Pe afai o se tagata failafoga po'o se isi tagata e a'afia ai ua fa'auluina se suiga o le lafoga totogi fa'afo'i o le Iunaite Setete mo so'o se tausaga fa'alafogaina e tusa ma so'o se mea o le aofa'i ato'a o le totogi, tupe toese, togi, po'o tupe fa'aaoga o se fefa'atauaiga e tusa ai pe iai se isi aia i le faia e le tagata failafoga o se fefa'atauaiga po'o se pisinisi i Amerika Samoa po'o le fa'atau mai, fa'atau atu, lisi po'o isi fesi'itaiga o oloa, galuega, po'o meatotino po'o isi galuega i le va o tagata e aafia ai ma le tagata failafoga i le faia o ana fefa'atauaiga po'o pisinisi i Amerika Samoa, o le tagata failafoga (po'o lona sui) ia failaina i le ivasefulu aso e soso'o ai se kopi o lona lafoga o totogi ua suia a le Iunaite Setete ma saunia nisi fa'amatalaga fa'aopoopo e mana'omia e le teutupe a Amerika Samoa. O le teutupe a Amerika Samoa e le mana'omia e talia, ua sa'o mo mafuaaga mo le lafoga tupe maua Samoa so'o se tasi o ia-suiga po'o fa'asaoga e le Komesina o Lafoga pe sui le lafoga o totogi a le Iunaite Setete ma e mafai ona faia se suegatusi tuto'atasi po'o su'esu'ega e tusa ai. O le teutupe o Amerika Samoa pe tatau ona fa'ae'e lafoga fa'aopoopo o totogi Samoa ua tatau i lalo o aiaiga o le tulafono lafoga totogi Samoa e tusa ma le tausaga fa'alafogaina po'o ni tausaga e fa'atatau iai le ripoti mana'omia i lalo o lenei soamaga po'o le suiga o lafoga o totogi o le Iunaite Setete e a'afia ai.

(e) Pe a faia e le tagata failafoga le ripoti mana'omia i lalo o le soamaga (a), po'o le failaina o le kopi o le fa'afo'i ua suia e pei ona fa'amatalaina i le soamaga (a), o le teutupe o Amerika Samoa ua iai, e le afaina ai so'o se aiaiga o le ~~Tulafono Lafoga a le Iunaite Setete~~ Tulafono Lafoga a Amerika Samoa e ese mai ai, o se taimi e lua tausaga e soso'o ma le aso sa faia ai e le tagata failafoga le ripoti mana'omia i lalo o le soamaga (a), pe failaina lea kopi o le lafoga fa'afo'i ua suia, sa fa'ae'e iai i le tagata failafoga lea lafoga totogi Samoa fa'aopoopo, pe afai e iai, pe afai ua tatau i lalo o aiaiga o le tulafono lafoga totogi Samoa e tusa ma le tausaga fa'alafogaina po'o tausaga e a'afia i lea ripoti o lafoga fa'afo'i. O aiaiga o lenei soamaga e le afaina ai le taimi sa fai ai po'o le aofa'i sa fai ai le fa'aega e faia e le teutupe o Amerika Samoa.

(i) Pe afai e le ripotia e le tagata failafoga se suiga po'o fa'asoaga a le komesina o Lafoga, pe le failaina le kopi o le fa'afo'i ua suia, e pei ona mana'omia e le soamaga (a) o le fa'ae'e atu o lafoga fa'aopoopo totogi e le teutupe o Amerika Samoa e mafai ona faia i so'o se taimi, e le afaina ai so'o se aiaiga o le ~~Tulafono Lafoga a le Iunaite Setete~~ Tulafono Lafoga a Amerika Samoa e ese ai.

(o) Mo mafuaaga o lenei maga:

(1) O fa'aupuga "ripoti" ia aofia ai, ae le fa'agataina i le igoa o le tagata failafoga, tuatusi, ma le numera fa'ailogaina ai, le tausaga fa'alafogaina po'o tausaga ua a'afia i le suiga po'o fa'asoaga ua fa'amatalaina i le soamaga (a), lisi o igoa, tuatusi, numera fa'ailogaina o so'o se tagata o lo'o a'afia ai i le suiga po'o le fa'asoaga se fa'amatalaga ma le lisi o le aofa'i o tala o lea suiga po'o fa'asoaga, se kopi o le fuafuaga mulimuli o lea suiga po'o fa'asoaga, ma nisi lava tala e fa'atonuina e le teutupe o Amerika Samoa.

(2) O le fa'aupuga "fuafuaga mulimuli" e aofia ai:

(A) o le tu'uina atu o le fa'aaliga i le 90 aso o mea e le'i atoa e tusa maga 6211 ma le 6212 (po'o le fa'ae'e i le sala e tusa ma le maga 6861) o le Tulafono Lafoga a le Iunaite Setete vagana se talosaga talafeagai e tusa ma le toefuafuaina o le tupe o aitalafu ai ua failaina i le Fa'amasinoga Lafoga o le Iunaite Setete o iai le uiga a le fa'amasinoga o se fa'aiuga mulimuli ua fa'amautuina pe toe fuafuaina lea tupe ua le totogia ua ta'ua e avea ma fuafuaga mulimuli.

(E) o le fa'ae'e atu o se sala e tusa ma le fa'agafuaga ua faitauina i lalo o le maga 6212 o le Tulafono Lafoga o le Iunaite Setete i se tulaga e le'i tu'uina atu se fa'aaliga mo le 90-aso.

(I) o se maliliega mulimuli e faia i lalo o le maga 7121 o le Tulafono Lafoga o le Iunaite Setete po'o se maliliega fa'apena i le fetu'uaiga ua faia e le komesina o Lafoga ma le tagata failafoga po'o tagata e faia iai; ma

(O) o se fa'atagaga e le Komesina o Lafoga, pe faia e se fa'amasinoga i se pulega agava'a i se iuga mulimuli, o se fa'afo'i pe so'o se vaega e lafoga o totogi o le Iunaite Setete ua fa'aalia i le fa'afo'i i lafoga o totogi a le Iunaite Setete a le tagata failafoga po'o tagata e faia iai pe so'o se tupe e le'i totogia e fa'ae'e mulimuli iai.

(e)(u) (1) O lenei maga 11.0414 ia fa'aaogaina i tausaga fa'alafogaina e fa'amuta pe a mavae 1980 e pei ona fa'apena ona faia se fa'aiuga mulimuli (i totonu lava o le uiga o lenei maga e le Komesina o Lafoga i tupe uma po'o le failaina o le suiga o le lafoga fa'afo'i o lafoga o le Iunaite Setete i le Komesina o Lafoga ua faia pe a mavae Tesema 31, 1989.

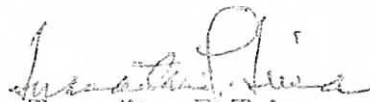
(2) O suiga ua faia i lenei tulafono ia taualoa e pei lava ua aofia i le maga 11.0414 e pei ona ulua'i fa'atulafonoina, o le Tusitulafono Toefa'atulafonoina o Amerika Samoa ma ia fa'aaoga i tausaga fa'alafogaina e fa'amuta pe a mavae le 1980 e pei ona fa'apena ona faia se fa'aiuga mulimuli (i totonu o le uiga o lenei tulafono le maga 11.0414(a) o le Tusitulafono Toefa'atulagaina o Amerika Samoa) e le Komesina o Lafoga Tupe Maua po'o le failaina o lafoga fa'afo'i a le Iunaite Setete i le Komesina o Lafoga Tupe Maua ua faia pe a mavae Tesema 31, 1989; pe afai o le tulaga o se fa'aiuga mulimuli po'o le failaina o lafoga fa'afo'i ua suia a le Iunaite Setete sa faia i le taimi a'o le'i o'o i le aso taualoa o lenei tulafono, o le taimi e ivasefulu aso ua fa'amatalaina i le maga 11.0414(a) o

le Tusitulafono Toefa'atulagaina o Amerika Samoa o le taimi lea e faia ai e le tagata fai lafoga lana ripoti i le teutupe o Amerika Samoa ia fa'aaogaina e amataina i le aso taualoa o lenei tulafono ma le taimi e lua tausaga ua fa'amatalaina i le maga 11.0414(c) o lenei tusitulafono e faia ai e le teutupe o Amerika Samoa le fa'ac'eina o lafoga fa'aopoopo totogi Samoa pe a faia lea ripoti e le tagata fa'alafogaina ia fa'aaoga e pei ona amataina i le aso se failaina e le tagata fa'alafogaina lea ripoti i le taimi e soso'o ma le aso e taualoa ai lenei tulafono."



Letuli Tofoa

PERESETENE, MAOTA MAUALUGA



Tuana'itau F. Tuia

FOFOGA FETALAI, MAOTA O SUI

Hereby Approved this 20th day of Jun., 19 91



Governor of American Samoa