

CHAPTER 3.
EXCHANGE OF INFORMATION (CONFIDENTIALITY) ACT

ARRANGEMENT OF SECTIONS

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An Act to provide for the confidentiality of information obtained by the Government of the Republic of the Marshall Islands under an Agreement for the Exchange of Information with respect to Taxes between the Government of the Republic of the Marshall Islands and the Government of the United States of America. [Section numbering style modified to conform to Code format][Rev.2003]

Commencement: September 18, 1989
Source: P.L. 1989-61

§301. Short title.

This Act may be cited as the "Exchange of Information (Confidentiality) Act of 1989". [P.L. 1989-61, §1.]

§302. Definitions.

In this Act, unless the context otherwise requires, "Agreement" means the Agreement between the Government of the Republic of the Marshall Islands and the Government of the United States of America, for the Exchange of Information with Respect to Taxes and accompanying diplomatic notes substantially in the form of that presented to the Nitijela in connection with its consideration of this Act. [P.L. 1989-61, §2.]

§303. Duty of confidentiality.

With respect to the administration of the Agreement, every person employed in carrying out the provisions of or having any official duty under the Agreement, shall regard and deal with all documents and information which may come into his possession or to his knowledge in the course of his duties, relating to any person, as confidential. [P.L. 1989-61, §3.][This Section has been modified for clarity.]

§304. Disclosure for purposes of enforcement.

Nothing in this Act shall apply to the disclosure of information:

(1) to any person as necessary to carry out the domestic laws of the Republic of the Marshall Islands regarding taxes covered by the Agreement, including determination, assessment, collection, and administration of, the recovery and collection of claims derived from, the enforcement or prosecution in respect of, or the determination of appeals in respect of such taxes. Such person may disclose the information in a public court proceeding to the extent necessary for purposes of the Agreement; and

(2) to any other person to whom such disclosure is necessary for the purposes of the Agreement. [P.L. 1989-61, §4.]

§305. Disclosure for statistical purposes.

Nothing in this Act shall be construed to prevent the disclosure of information of a statistical nature, but any such information shall be supplied in such manner as not to disclose the identity of any person in relation to his income. [P.L. 1989-61, §5.]

§306. Oath of confidentiality.

Every person appointed under or employed in carrying out the provisions of the Agreement, and every person to whom information is disclosed under Subsections (1) or(2) of Section 304 of this Act, may, at the discretion of the Minister of Finance, be required to make an oath or affirmation of confidentiality in the manner and form approved by the Attorney-General. [P.L. 1989-61 §6.]

§307. Oath; administration.

Any oath or affirmation under Section 306 of this Act may be taken before the Attorney - General (who is hereby authorized to administer such oath or affirmation), or before a notary, and no fee shall be payable therefor. [P.L. 1989-61, §7.]

§308. Oath; duration.

The obligation as to confidentiality imposed by this Act shall continue to apply in respect of any person notwithstanding that he ceases to be appointed under or employed in carrying out the provisions of the Agreement. [P.L. 1989-61, §8.]

§309. Privilege against compelled disclosure.

No person referred to in Section 303 of this Act, shall be required to produce in any court any return of income, assessment or notice of assessment or to divulge or communicate any information which comes to his knowledge in the performance of his office, duties or employment in respect of the Agreement, except to the extent to which it is necessary for the purposes of the Agreement. [P.L. 1989-61, §9.]

§310. Criminal penalties.

Any person who discloses or divulges any information or produces any document in contravention of this Act, is guilty of a criminal offense and is subject to a fine of five thousand dollars (US \$5,000), or to imprisonment for a period not to exceed one year, or both. [P.L. 1989-61, §10.]