

AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending sections 134, 139, 144, 155 and 902 thereof for the purpose of modifying and clarifying the penalties assessable against taxpayers for failure to file returns or pay taxes when due, by enacting a new section 903 thereof to provide for the waiver of penalties and interest on delinquent taxes paid during a specified period, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 134 of title 54 of the Code of the
2 Federated States of Micronesia is hereby amended to read as
3 follows:

4 "Section 134. Resident employers – Liability to
5 penalties.

6 Any employer who violates any of the provisions of
7 sections 132 and 133 of this chapter shall be subject to
8 penalties prescribed in this title."

9 Section 2. Section 139 of title 54 of the Code of the
10 Federated States of Micronesia is hereby amended to read as
11 follows:

12 "Section 139. Nonresident employers – Employee returns
13 – Extension of time; Penalties.

14 (1) The Secretary, upon request of a taxpayer required
15 by section 137 of this chapter to make returns, may
16 permit semiannual returns and payments of tax with
17 respect to salaries and wages, and in granting such

1 permission shall fix the date or dates for such filing
2 of returns and payment of taxes.

3 (2) The Secretary, for good cause, may extend the time
4 for making returns and payments, but not beyond the
5 twentieth day of the second month succeeding the regular
6 due date thereof.

7 (3) Failure to comply with the provisions of sections
8 137, 138, and 139 of this chapter shall be punishable
9 under the penalties prescribed in this title."

10 Section 3. Section 144 of title 54 of the Code of the
11 Federated States of Micronesia is hereby amended to read as
12 follows:

13 "Section 144. Liability for payment of tax; Penalties.

14 (1) Every business shall be liable for the payment of
15 the tax required to be deducted and paid by it to the
16 Government.

17 (2) Failure to comply with the provisions of this
18 section shall be punishable under the penalties
19 prescribed by this title."

20 Section 4. Section 155 of title 54 of the Code of the
21 Federated States of Micronesia is hereby further amended to read
22 as follows:

23 "Section 155. Civil penalties.

24 The criminal penalties imposed by section 154 of this
25 chapter for violation of provisions of this chapter
26 shall be separate from, and in addition to, all other

1 penalties or interest provided for in this section. The
2 following civil penalties are hereby levied and shall be
3 assessed and collected by this Secretary:

4 (1) *Failure to file return on time.* Except as may be
5 permitted by the Secretary pursuant to sections 139 and
6 143 of this chapter, if any taxpayer fails to make and
7 file a return required under this chapter on or before
8 the date set, unless prior to that date such taxpayer
9 applied for and received an extension for reasonable
10 cause, one percent of the tax shall be added for each 30
11 days or fraction thereof elapsing between the due date
12 of the return and the date on which it is actually
13 filed; provided, however, that the minimum penalty under
14 this subsection shall be five dollars and the maximum
15 penalty under this section shall be 25 percent of the
16 tax due.

17 (2) *Failure by employer to file statement.* Any
18 employer require to furnish a written statement
19 prescribed in section 133 of this chapter who willfully
20 failed to file such statements on the date prescribed
21 thereof, except with regard to any extension of time for
22 filing, shall be subject to a five dollar penalty for
23 each such statement not so filed.

24 (3) *Failure to file after demand.* Where taxpayer
25 fails to file return and pay tax after demand in any
26 case where the Secretary makes a return and assesses a

1 tax after a taxpayer's failure or refusal to make and
2 file a return and pay the tax required by this chapter,
3 10 percent of the tax assessed, in addition to the
4 penalties of subsection (1) of this section, shall be
5 added thereto.

6 (4) *False and fraudulent returns.* If any part of any
7 deficiency is due to fraud with intent to evade the tax,
8 or any portion thereof, 50 percent of the total amount
9 of such deficiency, in addition to the penalties
10 provided in subsections (1), (2), and (3) of this
11 section, shall be assessed and added to the deficiency
12 assessment.

13 (5) *Interest.* If any tax imposed by this chapter is
14 not paid on or before the date prescribed for such
15 payment, there shall be collected, in addition to such
16 tax and any penalties assessed, interest on the unpaid
17 balance of the tax principal at the rate of six percent
18 per annum from its due date until the date it is paid."

19 Section 5. Section 902 of title 54 of the Code of the
20 Federated States of Micronesia is hereby further amended to read
21 as follows:

22 "Section 902. Monthly penalty upon unpaid taxes and
23 fees.

24 (1) In case of failure to pay any tax levied or
25 imposed under this title when due, there shall be added
26 to the amount due five percent of the principal amount

1 of such tax, if the failure is not for more than one
2 month, with an additional one percent for each
3 additional month or fraction thereof during which such
4 failure continues, not exceeding 25 percent in the
5 aggregate, in addition to any penalties assessed under
6 section 155 of this title."

7 Section 6. Title 54 of the Code of the Federated States of
8 Micronesia is hereby amended by enacting a new section 903 to read
9 as follows:

10 "Section 903. Notwithstanding any other provision of
11 this title, all civil penalties and interest under this
12 title, which were levied or could have been levied prior
13 to the effective date of this Act, shall be waived with
14 respect to any taxpayer who, at any time between the
15 effective date of this Act and June 30, 2005, pays the
16 full amount of the tax owed by the taxpayer, except that
17 no penalty assessed under section 155(4) of this title
18 shall be waived."

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23 Section 7. This act shall become law upon approval by the
24 President of the Federated States of Micronesia or upon its
25 becoming law without such approval, and shall apply retroactively
26 to any tax returns that have not yet been filed and taxes that

1 have not yet been paid as of said effective date.

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December 16, 2004

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/s/ Joseph J. Urusemal

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Joseph J. Urusemal

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President

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Federated States of Micronesia

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