

AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by adding a new chapter 3 to establish an income tax for corporations, and for other purposes.

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

1           Section 1. Title 54 of the Code of the Federated States of  
2 Micronesia, as amended, is hereby further amended by adding a new  
3 chapter 3 entitled "Income Tax Regime for FSM Corporations".

4           Section 2. Title 54 of the Code of the Federated States of  
5 Micronesia, as amended, is hereby further amended by adding a new  
6 section 311 of chapter 3 to read as follows:

7                   "Section 311. Short title. This chapter may be cited  
8 as the 'Corporate Income Tax Act of 2004'."

9           Section 3. Title 54 of the Code of the Federated States of  
10 Micronesia, as amended, is hereby further amended by adding a new  
11 section 312 of chapter 3 to read as follows:

12                   "Section 312. Definitions.

13                   (1) 'Control group' for purposes of this chapter shall  
14 mean a corporation and its 80% or greater owned  
15 subsidiaries, its parent companies that own directly or  
16 indirectly 80% or more of the corporation, and the 80%  
17 or greater owned subsidiaries of such parent companies.

18                   (2) 'Major Corporation' means any corporation that is  
19 subject to taxation under this chapter, specifically,  
20 any corporation that is not exempt from taxation by

1 section 313 of this chapter.

2 (3) 'Secretary' means the Secretary of the Department  
3 of Finance and Administration.

4 (4) 'Taxable Year' shall mean the fiscal year of the  
5 major corporation as reported to the Secretary under  
6 section 314 of this chapter."

7 Section 4. Title 54 of the Code of the Federated States of  
8 Micronesia, as amended, is hereby further amended by adding a new  
9 section 313 of chapter 3 to read as follows:

10 "Section 313. Applicability of this chapter. Taxes  
11 imposed under this chapter shall apply to all  
12 corporations incorporated in the Federated of States of  
13 Micronesia unless:

14 (1) the corporation's shareholder equity or paid-in  
15 capital as of the beginning of its fiscal year is less  
16 than \$1,000,000; or

17 (2) the shareholder equity or paid-in capital of the  
18 corporation's control group is less than \$10,000,000; or

19 (3) the corporation is principally engaged in business  
20 in the Federated States of Micronesia as a bank as such  
21 term is defined in 29 F.S.M.C. §102(1); or

22 (4) the corporation was formed under the laws of the  
23 Federated States of Micronesia prior to January 1,  
24 2005."

25 Section 5. Title 54 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by adding a new  
2 section 314 of chapter 3 to read as follows:

3 "Section 314. Filing of report. A major corporation  
4 shall file an initial written report with the Secretary.  
5 The written report shall be signed by the authorized  
6 representative of the major corporation and shall state:

7 (1) the true and correct name of the major  
8 corporation;

9 (2) the taxpayer identification number or other  
10 identifying number, if any, of the major corporation;

11 (3) the mailing and office address of the major  
12 corporation;

13 (4) the name, address, telephone, and fax numbers of  
14 the authorized representative for the major  
15 corporation;

16 (5) the nature of the major corporation's principal  
17 business; and

18 (6) the last day of the major corporation's fiscal  
19 year.

20 The report shall be filed by the major corporation  
21 within sixty (60) days of the major corporation becoming  
22 subject to this chapter."

23 Section 6. Title 54 of the Code of the Federated States of  
24 Micronesia, as amended, is hereby further amended by adding a new  
25 section 315 of chapter 3 to read as follows:

1           "Section 315. Continued applicability of this chapter.  
2           A major corporation subject to taxation under this  
3           chapter shall continue to be subject to taxation under  
4           this chapter through the last day of the taxable year in  
5           which it meets the criteria set forth in section 313 on  
6           any day of such taxable year."

7           Section 7. Title 54 of the Code of the Federated States of  
8           Micronesia, as amended, is hereby further amended by adding a new  
9           section 321 of chapter 3 to read as follows:

10           "Section 321. Tax imposed. A tax at the rate of  
11           twenty-five and a half percent (25.5%) is hereby imposed  
12           for each taxable year on the taxable income of every  
13           major corporation."

14           Section 8. Title 54 of the Code of the Federated States of  
15           Micronesia, as amended, is hereby further amended by adding a new  
16           section 322 of chapter 3 to read as follows:

17           "Section 322. Taxable income defined. The taxable  
18           income of a major corporation equals its income, before  
19           income taxes, earned in the taxable year as determined  
20           under Generally Accepted Accounting Principles  
21           (hereinafter, 'GAAP'), as GAAP is regularly utilized in  
22           the major corporation's principal shareholder's, if a  
23           corporation, place of incorporation or, if an  
24           individual, country of primary residence."

25           Section 9. Title 54 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by adding a new  
2 section 323 of chapter 3 to read as follows:

3 "Section 323. Exemption from Taxation of Gross Revenues.

4 Any major corporation that is not engaging in business  
5 in the Federated States of Micronesia or a business  
6 operating in the Federated States of Micronesia pursuant  
7 to section 360 of this chapter and remits tax pursuant  
8 to section 321 of this chapter is exempt from the  
9 requirements of title 54, chapter 1, subchapter IV:  
10 Taxation of Gross Revenues, for each taxable year that  
11 the major corporation has remitted tax pursuant to  
12 section 321 of this chapter."

13 Section 10. Title 54 of the Code of the Federated States of  
14 Micronesia, as amended, is hereby further amended by adding a new  
15 section 331 of chapter 3 to read as follows:

16 "Section 331. Non-refundable credit for payment of  
17 foreign taxes. In the case of a major corporation, any  
18 income taxes paid or accrued on taxable income during  
19 the taxable year to a foreign country shall be allowed  
20 as a credit against the amount of tax imposed by section  
21 321. In the case of a dividend received by a major  
22 corporation, a credit shall also be allowed against the  
23 amount of tax imposed by section 321 in an appropriate  
24 amount to reflect any income taxes the major corporation  
25 can demonstrate have been paid with respect to such

1           dividend to any foreign country or countries. In no  
2           case shall a major corporation, in any taxable year, be  
3           entitled to credits which, in the aggregate, exceed the  
4           amount of the tax imposed, for that taxable year, under  
5           the provisions of section 321 of this chapter. No  
6           foreign tax credit shall be permitted to create a refund  
7           or credit for overpayment of tax; but any amount of  
8           foreign tax not creditable by reason of this provision  
9           may be carried forward as a creditable foreign tax to  
10          each succeeding year until fully utilized subject to the  
11          same restrictions in the succeeding years."

12          Section 11. Title 54 of the Code of the Federated States of  
13          Micronesia, as amended, is hereby further amended by adding a new  
14          section 332 of chapter 3 to read as follows:

15                 "Section 332. Refundable Credit for overpayment of tax.  
16                 In the case of any overpayment by a major corporation of  
17                 tax imposed by section 321, the amount of such  
18                 overpayment shall be refunded to the major corporation  
19                 or shall be applied to any tax liability owed by the  
20                 major corporation to the Federated States of  
21                 Micronesia."

22          Section 12. Title 54 of the Code of the Federated States of  
23          Micronesia, as amended, is hereby further amended by adding a new  
24          section 341 of chapter 3 to read as follows:

25                 "Section 341. Change of Fiscal Year. A major

1 corporation may, at its option, change its fiscal year,  
2 provided that such a change may not be done more than  
3 once during any sixty (60) month period without the  
4 advance written consent of the Secretary."

5 Section 13. Title 54 of the Code of the Federated States of  
6 Micronesia, as amended, is hereby further amended by adding a new  
7 section 342 of chapter 3 to read as follows:

8 "Section 342. Method of accounting. The taxable income  
9 of a major corporation shall be computed under the  
10 method of accounting which the major corporation  
11 regularly computes its income. To the extent permitted  
12 by GAAP, a major corporation may compute its taxable  
13 income under any of the following methods of accounting:

- 14 (1) the cash receipts and disbursements method;  
15 (2) an accrual method;  
16 (3) any combination of the foregoing methods or any  
17 other method selected by the major corporation.

18 To the extent permitted by GAAP, a major corporation  
19 using any one of the above methods may, at its option,  
20 convert to another one of the above methods, provided  
21 that such a conversion may not be done more than once  
22 during any sixty (60) month period without the advance  
23 written consent of the Secretary."

24 Section 14. Title 54 of the Code of the Federated States of  
25 Micronesia, as amended, is hereby further amended by adding a new

1 section 351 of chapter 3 to read as follows:

2 "Section 351. Filing of annual returns. Every major  
3 corporation shall prepare and file with the Secretary an  
4 annual income tax return on a form approved by the  
5 Secretary, which annual income tax return shall be  
6 signed by the major corporation's authorized  
7 representative. This form shall be filed with the  
8 Secretary, together with a copy of the major  
9 corporation's audited financial statements in a form  
10 acceptable to the Secretary, by the last day of the  
11 sixth month period following the last day of the major  
12 corporation's taxable year."

13 Section 15. Title 54 of the Code of the Federated States of  
14 Micronesia, as amended, is hereby further amended by adding a new  
15 section 352 of chapter 3 to read as follows:

16 "Section 352. Payment of tax due. Within 30 days of  
17 the last day of the major corporation's taxable year,  
18 the major corporation shall pay its estimated amount of  
19 the tax due for that year (hereinafter, the 'estimated  
20 amount'). Any additional tax due as shown on the annual  
21 income tax return of the major corporation shall be paid  
22 by the last business day of the sixth month period  
23 following the last day of the major corporation's  
24 taxable year. If the additional tax due as indicated on  
25 the annual income tax return is more than 10% of the

1           estimated tax amount paid, the major corporation shall  
2           also pay interest, compounded monthly and not in  
3           advance, on the additional tax due at the rate of two-  
4           thirds of one percent per month, or fraction of a month,  
5           from the date the estimated tax amount was due to the  
6           date the additional tax is paid."

7           Section 16. Title 54 of the Code of the Federated States of  
8   Micronesia, as amended, is hereby further amended by adding a new  
9   section 360 of chapter 3 to read as follows:

10           "Section 360. Engaging in business or operating a  
11           business in the Federated States of Micronesia. A  
12           corporation incorporated in the Federated States of  
13           Micronesia that only holds, buys, sells, transfers or  
14           otherwise transacts with assets or property located  
15           outside of the FSM, including but not limited to,  
16           businesses, shares, stocks, bonds, annuities, treasury  
17           bills, partnership units or trust units, is not engaging  
18           in business in the Federated States of Micronesia or a  
19           business operating in the Federated States of Micronesia  
20           for the purposes of section 323 of this chapter or title  
21           32, chapter 2: the Foreign-Investment Act of the Code of  
22           the Federated States of Micronesia."

23           Section 17. Title 54 of the Code of the Federated States of  
24   Micronesia, as amended, is hereby further amended by adding a new  
25   section 370 of chapter 3 to read as follows:

