A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending section 123 thereof, and by further amending section 141 thereof, as amended by Public Law No. 5-84, both for the purpose of creating a one-year tax holiday for up to one-half of gross receipts taxes and wages and salaries taxes reinvested in businesses based within the territorial boundaries of the Federated States of Micronesia, and for other purposes.

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

1. Section 123 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 123. Refunds of taxes on wages and salaries.

(1) If it shall be shown, upon application of an employee, that there has been withheld from his wages or salaries any tax not due thereon, or more than the amount of tax due thereon, or that he has paid from his wages and salaries any tax not due thereon or more than the amount of tax thereon, or if it is shown upon application of the business that it has paid an amount not due as tax under this chapter or greater than the tax levied under this chapter, then the Secretary shall refund the amount found to have been overpaid or otherwise not due and shall pay such refund out of current collections of the tax; provided, the Secretary shall be satisfied that:

(a) the amount so overpaid or otherwise not due has been paid to the Government;

(b) the amount of refund claimed has not been used as a credit against any tax or taxes due and payable to the Government from such employee; and
(c) application for such refund was filed within one year after the end of the calendar year in which the amount to be refunded was withheld or paid.

(2) The Secretary shall make a decision on the application for refund within ninety days after it is submitted.

(3) Notwithstanding the provisions of subsection (1) of this section if it shall be shown, upon application of an employee, that during the taxable period, such employee has invested funds in a business whose principal office is located in, and whose operations are primarily conducted within the territorial boundaries or the Exclusive Economic Zone of, the Federated States of Micronesia, then the Secretary shall refund to the applicant such amount from the tax levied and collected from the applicant for that tax period. Such refund shall be payable out of current collections of the tax, provided that:

(a) the refund amount shall not exceed one-half of the taxes owed by the applicant during such tax period; and

(b) the Secretary shall be satisfied that:

(i) the investment claimed reflects a
cash, or equivalent, investment in a legitimate business, as defined by regulation; and

(ii) such funds have been invested during the tax period continuously for a period of no less than 180 days prior to the date of application.

(4) The burden of proof under subsection (3) of section shall rest with the applicant. The provisions of subsection (3) of this section shall not affect any reporting or filing requirement and shall have force or effect only with regard to the tax year ending December 31, 1999."

Section 2. Section 141 of title 54 of the Code of the Federated States of Micronesia, as amended by Public Law No. 5-84, is hereby further amended to read as follows:

"Section 141. Tax on gross revenues: Exemption.

(1) There shall be assessed, levied, collected, and paid a tax of $80 per year upon that portion of the amount of gross revenues earned by every business subject to the provisions of this chapter which does not exceed $10,000 per year.

(2) There shall be assessed, levied, collected, and paid a tax of three percent per year upon that portion of the amount of gross revenues earned by every business subject to the provisions of this
chapter which is in excess of $10,000 per year.

(3) Businesses which earn gross revenues of not more than $2,000 per year are exempt from taxation under this section. The deduction shall be claimed by the business by filing for a refund under the provisions of sections 122 and 123 of this chapter.

(4) For the purpose of section 805 of this title, every business that operates in more than one State of the Federated States of Micronesia shall file a separate tax return for revenue collected in each State.

(5) Notwithstanding the provisions of subsections (1) through (4) of this section, any person, upon filing his or her tax return, may claim an exemption of up to one-half of any tax payable pursuant to such return, to the extent that he or she can prove to the satisfaction of the Secretary that:

(a) the investment reflects a cash, or equivalent, investment in a legitimate business, as defined by regulation;

(b) such funds have been invested in a business whose principal office is located in, and whose operations are primarily conducted within the territorial boundaries of the Exclusive Economic
Zone of the Federated States of Micronesia; and

c) such funds have been invested during
the tax period continuously for a period of no less
than 180 days prior to the date of application.

(6) The burden of proof under subsection (5) of
this section shall rest with the applicant. The
provisions of subsection (5) of this section shall
not affect any reporting or filing requirement and
shall have force or effect only with regard to the
tax year ending December 31, 1999."

Section 3. This act shall become law upon approval by
the President of the Federated States of Micronesia or upon
its becoming law without such approval.

Date: Nov. 23, 1998  Introduced by: Peter M. Christian