

A BILL FOR AN ACT

To amend chapter 7 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 16-75, by adding a new section 703 concerning the definition of a revenue law, by amending sections 702, 735, 751, 756, and 758, and for other purposes.

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

1 Section 1. Section 702 of title 54 of the Code of the
2 Federated States of Micronesia, as enacted by Public Law No.
3 16-75, is hereby amended to read as follows:

4 "Section 702. Definitions.

5 Wherever used in this Chapter, unless the subject
6 matter, context, or sense otherwise requires:

7 (1) 'Authority' means the Federated States of
8 Micronesia Unified Revenue Authority established by
9 section 711 of this title.

10 (2) 'Board' means the Board of Directors of the
11 Authority appointed under section 712 of this
12 title.

13 (3) 'CEO' means the Chief Executive Officer
14 appointed under Section 731.

15 (4) 'Congress' means the Congress of the
16 Federated States of Micronesia.

17 (5) 'CTA' means the FSM Department of Finance and
18 Administration, Division of Customs and Tax
19 Administration.

1 (6) 'Finance Official' means the Secretary, a
2 Director of Finance, Director of Administration,
3 Director of Administration and Treasury or such
4 other official holding the highest administrative
5 office responsible for matters of finance or
6 taxation within the FSM National Government or the
7 Government of any State.

8 (7) 'FSM' means the Federated States of
9 Micronesia.

10 (8) 'Government' means the Government of the
11 Federated States of Micronesia or the Government of
12 a State in the Federated States of Micronesia,
13 whichever the context appropriately requires.

14 (9) 'Generally Accepted Accounting Principles'
15 or "GAAP" means those accounting principles
16 currently accepted by certified public
17 accountants, which are utilized by auditors
18 operating within the FSM; provided, however, that
19 in the event International Financial Reporting
20 Standards (IFRS) become generally accepted by the
21 financial/auditing entities within the FSM and as
22 prescribed by law or regulations, then GAAP shall
23 be modified by IFRS.

24 (10) 'Memorandum of Understanding' means the
25 Memorandum of Understanding entered into between

1 the FSM National Government and the several States
2 under section 759 of this title.

3 (11) 'National tax' means a tax or duty imposed
4 under a law referred to in paragraphs (a) or (b) of
5 the definition of "Revenue law" in subsection (15)
6 of this section.

7 (12) 'Net tax' means the gross collection of tax,
8 penalties, and interest under a revenue law less
9 refunds paid under such law.

10 (13) 'Net National taxes' means the net tax
11 collected in respect of National taxes.

12 (14) 'Net State taxes' means the net tax collected
13 in respect of a State's taxes.

14 (15) 'Prescribed percentage', in relation to the
15 Authority's operations budget, is that percentage
16 determined under sections 752 and 756(2) of this
17 title.

18 (16) 'Revenue authority' means the CTA as defined
19 in subsection (5) of this section, or the
20 administrative office responsible for matters of
21 finance or taxation within the Government of any
22 State.

23 (17) 'Revenue law' means:

24 (a) any chapter under this title except
25 chapter 3 of title 54 of the Code of the Federated

1 States of Micronesia;

2 (b) a law of the FSM imposing a tax or duty
3 if the law provides that the Authority has the
4 responsibility for administering the tax or duty;
5 and

6 (c) a law of a State imposing a tax which
7 the Authority is allowed to administer by virtue
8 of the laws of such State.

9 (18) 'Revenue officer' means the CEO and any
10 officer of the Authority appointed under section
11 732 of this title.

12 (19) 'Secretary' means the Secretary of the
13 Department of Finance and Administration.

14 (20) 'State' means a State of the Federated States
15 of Micronesia; and

16 (21) 'State tax' means a tax imposed under a law
17 referred to in paragraph (c) of the definition of
18 "Revenue law" in subsection (17) of this section."

19 Section 2. Chapter 7 of title 54 of the Code of the
20 Federated States of Micronesia, as enacted by Public Law No.
21 16-75, is hereby amended by inserting a new section 703 to
22 read as follows:

23 "Section 703. Modification of Definitions of
24 Revenue Law, National Tax, State Tax.

25 (1) The definition of "revenue law" includes a

1 law of the FSM referred to in section 807 of
2 chapter 8 of this title or of a law of a State
3 authorizing the Authority to collect a levy,
4 charge, fee, or similar amount for the purposes of
5 the following sections:

6 (a) the definition of "net tax" in section
7 702(12); and

8 (b) section 712(3), 713(3) and (9), 733,
9 735, 741(1), 754, 761, 762, and 764.

10 (2) The definition of "National Tax" includes a
11 levy, charge, fee, or similar amount imposed under
12 a law of the FSM referred to in section 807 of
13 chapter 8 of this title for the purposes of the
14 following sections:

15 (a) the definition of "net National taxes"
16 in section 702(13); and

17 (b) sections 735(1)(b), 741(11), 751(8), and
18 753(1).

19 (3) The definition of "State Tax" includes a
20 levy, charge, fee, or similar amount imposed under
21 a law of a State authorizing the Authority to
22 collect such levy, charge, fee, or similar amount
23 for the purposes of the following sections:

24 (a) the definition of "net State taxes" in
25 section 702(14); and

1 (b) sections 735(1)(c), 741(12), 751(8), and
2 753(2)."

3 Section 3. Chapter 7 of title 54 of the Code of the
4 Federated States of Micronesia, as enacted by Public Law No.
5 16-75, is hereby amended to read as follows:

6 "Section 735. Confidentiality and disclosure of
7 information.

8 (1) Revenue officers, directors, employees of the
9 Authority, former directors of the Board, former
10 members of a committee of the Board, persons
11 invited to a Board or committee meeting, former
12 employees or contractors of the Authority, and any
13 person formerly or presently engaged by the
14 Authority in any capacity shall not disclose any
15 business or personal document or information
16 received during the performance of duties or in the
17 course of any meeting of the Authority if such
18 document or information is deemed confidential or
19 secret by law or by generally accepted business
20 practices, except that they may disclose a
21 confidential or secret business or personal
22 document or information to:

23 (a) another revenue officer, but only to the
24 extent required by law or as may be necessary for
25 the purposes of any revenue law;

1 (b) the Secretary, but only in relation to National
2 taxes;

3 (c) a Finance Official of a State, but only
4 in relation to the State's taxes;

5 (d) the Secretary of the FSM Department of
6 Justice or his designee, but only to the extent
7 required for any legal action or claim by or
8 against the National Government;

9 (e) the Attorney General of a State
10 Government or his designee, but only to the extent
11 required for any legal action or claim by or
12 against the State;

13 (f) a Court of competent jurisdiction upon
14 order of such Court, or to the extent necessary
15 with respect to the enforcement of any revenue law;

16 (g) the National Public Auditor or a person
17 authorized by the National Public Auditor in
18 writing, but only to the extent that the disclosure
19 is necessary for the performance of the audit of
20 the Authority's accounts;

21 (h) the State Public Auditor or a person
22 authorized by the State Public Auditor in writing,
23 but only to the extent that the disclosure is
24 necessary for audit of accounts held by the
25 Authority on behalf of the State;

1 (i) the competent authority of a government
2 of a foreign country with which the FSM National
3 Government has entered into an agreement providing
4 for the exchange of information, but only to the
5 extent permitted under that agreement and
6 applicable law;

7 (j) any competent authority of the FSM
8 National Government or a State or Local Government
9 with which the Authority has entered into an
10 agreement providing for the exchange of
11 information, but only to the extent permitted under
12 that agreement and applicable law;

13 [j] (k) a person with the written consent of the
14 person to whom the documents or information relate.

15 (2) If a revenue officer is permitted to disclose
16 documents or information under subsection (1) of
17 this section, the officer must maintain secrecy and
18 confidentiality except to the minimum extent
19 necessary to achieve the object for which the
20 disclosure is permitted.

21 (3) Every person who knowingly or intentionally
22 violates any provision of subsections (1) or (2)
23 hereof, or a duty or obligation imposed therein,
24 shall be guilty of a felony and, upon conviction
25 thereof, shall be fined not less than \$500.00 and

1 not more than \$5,000.00, or be imprisoned for not
2 more than two years, or both."

3 Section 4. Chapter 7 of title 54 of the Code of the
4 Federated States of Micronesia, as enacted by Public Law No.
5 16-75, is hereby amended to read as follows:

6 "Section 751. Funds of the Authority.

7 (1) *Establishment.* There shall be established a
8 Federated States of Micronesia Special Fund,
9 hereinafter referred to as the "Fund", separate and
10 apart from all public monies or funds of the
11 Federated States of Micronesia, which shall be
12 administered by the Authority exclusively for the
13 purposes of this chapter.

14 (2) *Deposits.* Except as may otherwise be
15 required by grantors in cases of grants, all funds
16 specified under subsection (4) hereof, and all
17 funds derived from deductions made pursuant to
18 section 752 hereof, shall be deposited in the Fund.

19 Any unexpended moneys in this Fund shall neither
20 revert nor lapse to the General Fund, or any other
21 Fund.

22 (3) *Administration.* The Fund shall be
23 administered by the CEO in accordance with the
24 regulations and procedures which the Board shall
25 promulgate as appropriate for the effectuation and

1 implementation of the provisions of this
2 subchapter. Procurement of goods and services [~~to~~
3 ~~be~~] funded wholly or partially from the Fund shall
4 be subject to the Procurement Code of the
5 Authority. If no Procurement Code is in force,
6 procurement shall be subject to the Financial
7 Management Act of 1979, as amended, and its
8 subsidiary regulations.

9 (4) *Authority funds.* The funds of the Authority
10 consist of:

11 (a) money appropriated from time to time by
12 Congress and paid to the Authority;

13 (b) money derived from the disposal, lease,
14 or hire of, or any other dealing with, any property
15 vested in or acquired by the Authority;

16 (c) money borrowed by the Authority in
17 accordance with subsection (5) of this section;

18 (d) income from investments referred to in
19 subsection (6) of this section;

20 (e) except as provided herein, any other
21 moneys that may become payable to the Authority in
22 respect of any matter incidental to its functions
23 and powers, including but not limited to grants or
24 other donated funding; and

25 (f) money deducted for the operations of the

1 Authority pursuant to section 752 hereof.

2 (5) The Authority may borrow upon such terms and
3 conditions as the Board may approve, any sums
4 required by the Authority to meet any of its
5 obligations or to perform any of its functions.

6 (6) The Authority shall, to the extent
7 practicable, maintain its funds in the form of
8 liquid, interest bearing bank deposits.

9 (7) The Authority shall conserve its funds by
10 performing its functions and exercising its powers
11 under this chapter so as to ensure that the total
12 revenues of the Authority are sufficient to meet
13 all sums properly chargeable to its revenue account
14 including depreciation and interest on capital.

15 (8) The funds of the Authority do not include
16 National and State taxes, or any interest or
17 penalty in relation to such taxes, collected by the
18 Authority on behalf of the FSM National Government
19 or the Governments of the several States."

20 Section 5. Section 756 of title 54 of the Code of the
21 Federated States of Micronesia, as enacted by Public Law No.
22 16-75, is hereby amended to read as follows:

23 "Section 756. Annual budget and costs of
24 administration.

25 (1) At such time and in such manner as the Board

1 may prescribe, but not later than six months prior
2 to the close of the current fiscal year, the CEO
3 shall submit to the Board a detailed estimate of
4 the budget for the next ensuing fiscal year for the
5 proper conduct of the Authority. This submission
6 shall include:

7 (a) for the last completed fiscal year,
8 audited accounts indicating the amount of revenue
9 collected by the Authority on behalf of the FSM
10 National Government and the Governments of the
11 several States, the amount of other income of the
12 Authority, and the amount of all expenditures
13 incurred by the Authority, together with the
14 closing balance of all bank accounts maintained by
15 the Authority;

16 (b) for the fiscal year in progress, a
17 statement showing the estimated amount of revenue
18 to be collected on behalf of the FSM National
19 Government and the Governments of the several
20 States, the estimated amount of other income of the
21 Authority, and the estimated amount of all
22 expenditures to be incurred by the Authority,
23 together with such summaries, schedules, and
24 supporting data as the board or the President may
25 require by notice in writing to the CEO; and

1 (c) for the next ensuing fiscal year, a
2 budget showing the estimated amount of revenue to
3 be collected on behalf of the FSM National
4 Government and the Governments of the several
5 States, the estimated amount of other income of the
6 Authority, and the estimated amount of all
7 expenditures to be incurred by the Authority,
8 including salaries and wages, purchases of office
9 supplies, operational expenses, and the cost of
10 maintaining branch offices.

11 (2) The prescribed percentage [~~annual budget of~~
12 ~~the Authority~~] shall be no more than ten percent
13 (10%) of the National Government's share of
14 National taxes [~~, expressed as the prescribed~~
15 ~~percentage authorized by Congress~~]; provided that
16 the Board may designate in writing a lower
17 deduction from National Taxes [~~budget cap, within~~
18 ~~the prescribed percentage~~]."

19 Section 6. Section 758 of title 54 of the Code of the
20 Federated States of Micronesia, as enacted by Public Law No.
21 16-75, is hereby amended to read as follows:

22 "Section 758. Distribution of Revenues.

23 (1) The Authority shall pay the following amounts
24 to the treasury of each State Government:

25 (a) one hundred percent (100%) of the net

1 tax collected pursuant to the Value Added Tax Act
2 of the State;

3 (b) one hundred percent (100%) of the net
4 tax collected pursuant to any other taxes imposed
5 by the State;

6 (c) fifty percent (50%) of the net tax
7 collected pursuant to the FSM Excise Tax Act in
8 relation to the import of alcohol and tobacco;

9 [~~e~~](d) eighty percent (80%) of the net tax
10 collected pursuant to section 221 of this Title in
11 relation to the import of gasoline and diesel fuels
12 into the State;

13 [~~d~~](e) fifty percent (50%) of the net tax
14 collected pursuant to Section 121 of this Title in
15 relation to wages and salaries received by
16 employees in the State;

17 [~~e~~](f) fifty percent (50%) of the net tax
18 collected pursuant to Section 221 (other than
19 Section 221 other than section 221 of this title in
20 relation to the import of gasoline and diesel fuels
21 into the State) of this Title in relation to the
22 import of goods into the State; and

23 [~~f~~](g) fifty percent (50%) of the net tax
24 collected pursuant to:

25 (i) Sections 521 and 522 of this Title

1 in relation to business carried on [~~through a~~
2 ~~permanent establishment~~] in the State [~~as~~
3 ~~determined under section 512 of this title~~] taking
4 account of Section 523(1) of this title;

5 (ii) Section 524 of this Title in
6 relation to the carriage of passengers, livestock,
7 mail, merchandise, or goods embarked in the State
8 or to the insurance of risks in the State; and

9 (iii) Section 525 of this Title in
10 relation to interest, royalties, a natural resource
11 amount, or a management fee derived by a non-
12 resident person from sources in the State
13 determined under Section 513 of this title on the
14 basis that the reference in that section to FSM is
15 a reference to the State.

16 (2) The Authority shall pay the following amounts
17 to the treasury of the National Government:

18 (a) twenty percent (20%) of the net tax
19 collected pursuant to section 221 of this Title in
20 relation to the import of gasoline and diesel fuels
21 into the State;

22 (b) fifty percent (50%) of the net tax
23 collected pursuant to Section 121 of this Title in
24 relation to wages and salaries received by
25 employees in the State;

1 (c) fifty percent (50%) of the net tax
2 collected pursuant to Section 221 (other than
3 Section 221 of this title in relation to the import
4 of gasoline and diesel fuels into the State) of
5 this title in relation to the import of goods into
6 the State; and

7 (d) fifty percent (50%) of the net tax
8 collected pursuant to:

9 (i) Sections 521 and 522 of this Title
10 in relation to business carried on [~~through a~~
11 ~~permanent establishment~~] in the State [~~as~~
12 ~~determined under section 512 of this title~~] taking
13 account of Section 523(1) of this title;

14 (ii) Section 524 of this Title in
15 relation to the carriage of passengers, livestock,
16 mail, merchandise, or goods embarked in the State
17 or to the insurance of risks in the State; and

18 (iii) Section 525 of this Title in
19 relation to interest, royalties, a natural resource
20 amount, or a management fee derived by a non-
21 resident person from sources in the State
22 determined under Section 513 on the basis that the
23 reference in that Section to FSM is a reference to
24 the State.

25 (3) The Authority shall pay the following amounts

1 to the treasuries of the State Governments
2 according to a formula to be agreed upon by the
3 five FSM Governments:

4 (a) fifty percent (50%) of the net tax
5 collected pursuant to the FSM Excise Tax Act in
6 relation to the import of alcohol and tobacco.

7 (4) The Authority shall distribute any levy,
8 charge, fee, or similar amount collected by the
9 Authority on behalf of either the FSM or a State
10 according to the terms of the Memorandum of
11 Understanding authorizing such collection.

12 [~~3~~] (5) All distributions referenced in this section
13 shall include any interest accrued while the funds
14 have been held by the Authority in trust.

15 [~~4~~] (6) The timing of the distribution of revenue
16 shall be as follows:

17 (a) By no later than the last day of each
18 month the Authority shall distribute to each
19 Government the net taxes collected and deposited
20 by the Authority during the previous month.

21 (b) Refunds to taxpayers shall be paid from
22 the subsequent month's distribution of revenue to
23 the Governments."

24

25 Section 7. This act shall become law upon approval by

1 the President of the Federated States of Micronesia or upon
2 becoming law without such approval.

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4 Date: 8/20/13

Introduced by: /s/ Florencio S. Harper

Florencio S. Harper

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(by request)

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