

A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia (Annotated), as amended, by creating a new chapter 6 to provide for availability, access, and exchange of information for taxation purposes, and for other purposes.

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

1 Section 1. The Congress finds that illegal tax evasion is a
2 serious and global problem, and the effective international
3 measures to exchange information for tax purposes is necessary to
4 prevent tax fraud, money laundering, and financing of terrorism.
5 It is hereby declared to be the policy of the Federated States of
6 Micronesia to implement international standards for transparency
7 and exchange of tax information, and it is the intent of Congress
8 that this chapter be implemented in accordance with the policy.

9 Section 2. Title 54 of the Code of the Federated States of
10 Micronesia (Annotated), as amended, is hereby further amended by
11 creating a new chapter 6 entitled: "Access and Exchange of
12 Information."

13 Section 3. Title 54 of the Code of the Federated States of
14 Micronesia (Annotated), as amended, is hereby further amended by
15 inserting a new section 601 of chapter 6, to read as follows:

16 "Section 601. Short title. This chapter may be cited
17 as the 'Exchange of Tax Information Act of 2016'."

18 Section 4. Title 54 of the Code of the Federated States of

1 Micronesia (Annotated), as amended, is hereby further amended by
 2 inserting a new section 602 of chapter 6, to read as follows:

3 "Section 602. Definitions.

4 Wherever used in this chapter, except where otherwise
 5 specified, unless the subject matter, context, or sense
 6 otherwise requires:

7 (1) "Business" includes any profession, trade,
 8 manufacture, or other undertaking carried on for
 9 pecuniary profit in the Federated States of Micronesia,
 10 but not including employment.

11 (2) "Customs and Tax Administration" means the
 12 division in the Department of Finance that is charged
 13 with administration of national tax laws. It is headed
 14 by an assistant secretary.

15 (3) 'Entity' means a company, corporation,
 16 partnership, unincorporated association or other
 17 business entity, trust, or estate that:

18 (a) is registered in the Federated States of
 19 Micronesia;

20 (b) has a permanent establishment in the
 21 Federated States of Micronesia;

22 (c) owns assets in the Federated States of
 23 Micronesia; or

24 (d) in the case of a trust, has a trustee
 25 resident in the Federated States of Micronesia.

1 (4) 'Secretary' means the Secretary of the Department
 2 of Finance and Administration."

3 Section 5. Title 54 of the Code of the Federated States of
 4 Micronesia (Annotated), as amended, is hereby further amended by
 5 inserting a new section 603 of chapter 6, to read as follows:

6 "Section 603. Availability of Information.

7 (1) Every business or entity, on or before January 31
 8 each year, shall provide complete ownership and identity
 9 information to the Customs and Tax Administration. The
 10 information required will be set out in a form approved
 11 by the Secretary pursuant to this section.

12 (2) Any corporation that has provided ownership
 13 information to the FSM National Registrar of
 14 Corporations within the previous year may file for an
 15 exemption from the requirements of subsection (1) of
 16 this section. The exemption request shall be on a form
 17 approved by the Secretary and shall contain such
 18 information as the Secretary may require.

19 (3) A business or entity may request an extension of
 20 time to file the information required by this section of
 21 up to 90 days."

22 Section 6. Title 54 of the Code of the Federated States of
 23 Micronesia (Annotated), as amended, is hereby further amended by
 24 inserting a new section 604 of chapter 6, to read as follows:

25 "Section 604. Accounting Records.

1 (1) Every business or entity shall maintain
 2 accounting records for a period of six years that:

3 (a) Correctly explain all transactions;

4 (b) Enable the financial position of the
 5 business or entity to be determined with reasonable
 6 accuracy; and

7 (c) Allow financial statements to be prepared.

8 (2) Every business or entity shall maintain
 9 underlying documents of all transactions such as
 10 invoices and contracts for a period of six years.

11 (3) The Secretary may by regulation provide for
 12 simplified accounting record retention requirements for
 13 small businesses and entities. Any regulations issued
 14 pursuant to this subsection shall comply with
 15 international standards for tax transparency.”

16 Section 7. Title 54 of the Code of the Federated States of
 17 Micronesia (Annotated), as amended, is hereby further amended by
 18 inserting a new section 605 of chapter 6, to read as follows:

19 “Section 605. Exchange of Information.

20 (1) Subject to ratification by Congress, the
 21 Executive branch may negotiate and execute treaty with
 22 another country on the exchange of tax information. Upon
 23 entry into force of such treaty, the Secretary may enter
 24 into agreement or agreements with foreign counterpart to
 25 implement the terms of treaty.

1 (2) Any exchange of information concluded with other
 2 nation under subsection (1) or subsection (2) of this
 3 Section shall provide for reasonable safeguards against
 4 unauthorized or improper disclosure of confidential
 5 information.

6 (3) Any exchange of information pursuant to an
 7 agreement entered into under subsection (1) or
 8 subsection (2) of this section shall be exempt from any
 9 confidentiality or secrecy provisions provided for by
 10 law, but only to the extent permitted under that
 11 agreement and applicable law."

12 Section 8. Title 54 of the Code of the Federated States of
 13 Micronesia (Annotated), as amended, is hereby further amended by
 14 inserting a new section 606 of chapter 6, to read as follows:

15 "Section 606. Power to Obtain Tax Information.

16 (1) The Secretary shall have authority to use any
 17 statutory powers to the extent granted in this title to
 18 obtain access to tax information for the purpose of
 19 complying with a request for exchange of tax
 20 information, including:

21 (a) powers to summon persons to provide
 22 testimony or provide documents under section 157(1) of
 23 this title;

24 (b) powers to summon third parties to provide
 25 testimony or provide documents under section 157(2) of

1 this title;

2 (c) powers of access to records under section
3 151 of this title; and

4 (d) powers of and seizure as may be provided for
5 under applicable FSM law.

6 (2) Any substantive restrictions or procedural
7 requirements associated with the exercise of statutory
8 access powers for a domestic tax purpose shall apply in
9 a like manner when exercising such powers for the
10 purpose of complying with a request for exchange of tax
11 information.

12 (3) The powers provided by this section shall be
13 exercised subject to such privileges as may be
14 recognized by the FSM Supreme Court, but shall not be
15 subject to contractual duties of confidentiality, and
16 shall not be subject to professional ethical
17 requirements not recognized by the law of privilege."

18 Section 9. Title 54 of the Code of the Federated States of
19 Micronesia (Annotated), as amended, is hereby further amended by
20 inserting a new section 607 of chapter 6, to read as follows:

21 "Section 607. Civil Penalty.

22 (1) If any business or entity fails to provide
23 ownership and identity information as required under
24 this chapter on or before the date set, unless prior to
25 that date such taxpayer applied for and received an

1 extension for reasonable cause, the business or entity
 2 shall pay a penalty of \$100 per month until such
 3 information is provided."

4 (2) If any business or entity fails to provide
 5 accounting records or banking or other information as
 6 required under chapter, then the business or entity
 7 shall pay a penalty of \$500 per month until such
 8 information is provided.

9 (3) If any person subject to a third party request
 10 for information or testimony as required by this
 11 chapter, then such person shall pay a penalty of \$500
 12 per month until such information is provided. As used
 13 in this subsection, a person includes a government,
 14 corporation, or other legal entity."

15 Section 10. Title 54 of the Code of the Federated States of
 16 Micronesia (Annotated), as amended, is hereby further amended by
 17 inserting a new section 608 of chapter 6, to read as follows:

18 "Section 608. Criminal Penalty.
 19 Any person, business or entity who willfully violates
 20 any of the provisions of this chapter, or any license,
 21 rule, or regulation issued thereunder, shall upon
 22 conviction be imprisoned for a period of not more than
 23 one year, or fined not more than \$50,000, or both."

24 Section 11. Title 54 of the Code of the Federated States of
 25 Micronesia (Annotated), as amended, is hereby further amended by

1 inserting a new section 609 of chapter 6, to read as follows:

2 "Section 609. With the approval of the President, the
3 Secretary may adopt new regulation or amend, or rescind
4 existing regulations prescribing rules for the efficient
5 and convenient implementation and enforcement, and such
6 regulations shall have the force and effect of law if
7 they are not in conflict with the express provisions of
8 this chapter or other laws of the FSM.

9 Section 12. This act shall become law upon approval by the
10 President of the Federated States of Micronesia or upon its
11 becoming law without such approval.

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13 Date: 12/14/16 Introduced by: /s/ Florencio S. Harper
 Florencio S. Harper
14 (by request)

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