

A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending section 144 thereof to authorize the waiver or reduction of tax penalties and interest in certain circumstances, and for other purposes.

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

1 Section 1. Section 144 of title 54 of the Code of the
2 Federated States of Micronesia, as amended by Public Law No. 13-
3 61, is hereby further amended to read as follows:

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

5 (1) Every business shall be liable for the payment of
6 the tax required to be deducted and paid by it to the
7 Government.

8 (2) Failure to comply with the provisions of this
9 section shall be punishable under the penalties
10 prescribed by this title, provided that the amount of
11 penalties and interest assessable due to late payment of
12 gross revenue taxes by any business in which the
13 National Government or a State Government owns more than
14 a fifty percent interest may be waived or reduced
15 pursuant to subsection (3) hereof.

16 (3) Upon application by a business in which the
17 National Government or a State Government owns more than
18 a fifty percent interest, the Secretary shall form a
19 panel to consider whether tax penalties or interest owed

1 by such business will be waived or reduced. The panel
2 shall consist of three members: the Secretary or his
3 designee, the Secretary of the Department of Justice or
4 his designee, and the Governor of the State in which the
5 business has its principal place of business or his
6 designee. The tax penalties or interest owed by the
7 business shall be waived or reduced in an amount
8 determined by the panel upon a finding by the panel that
9 such waiver or reduction is in the public interest. In
10 making its findings the panel shall consider the
11 following factors:

12 (a) Whether a waiver or reduction of the
13 penalties or interest would assist the National
14 Government in collecting the principal amount of the tax
15 owed;

16 (b) The causes of the business' failure to pay
17 taxes when due;

18 (c) The likelihood that the business' operations
19 would have to be curtailed or terminated if the business
20 were required to pay the full amount of the penalties
21 and interest;

22 (d) The effect on the public interest if the
23 business' operations were to be curtailed or terminated;

24 (e) The effect on the interests of the government
25 owner of the business if the business were required to
26 pay the full amount of the penalties and interest; and

1 (f) Whether a waiver or reduction of the tax
2 penalties or interest would adversely affect private
3 sector development by giving the business a competitive
4 advantage over privately-owned businesses.
5 Findings approved by the vote of two or more members of
6 the panel shall constitute the findings of the panel.
7 The panel may condition its decision to waive or reduce
8 penalties or interest upon such terms, including a
9 prohibition on the payment of dividends or other
10 distribution of value to minority owners, as it deems
11 necessary to ensure that such waiver or reduction does
12 not confer substantial benefit on any private owner of
13 the business."

14 Section 2. This act shall become law upon approval by the
15 President of the Federated States of Micronesia or upon its
16 becoming law without such approval.

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18 Date: 1/24/05

Introduced by: /s/ Moses A. Nelson
Moses A. Nelson