## A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending sections 134, 139, 144, 155 and 902 thereof for the purpose of modifying and clarifying the penalties assessable against taxpayers for failure to file returns or pay taxes when due, and for other purposes.

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

- Section 1. Section 134 of title 54 of the Code of the
  Federated States of Micronesia, as amended, is further amended to
  read as follows:

  "Section 134. Resident employers Liability to
  penalties.
- Any employer who violates any of the provisions of
  sections 132 and 133 of this chapter shall be subject to
  penalties prescribed in this [chapter] title."
- 9 Section 2. Section 139 of title 54 of the Code of the 10 Federated States of Micronesia, as amended, is further amended to
- 11 read as follows:
- "Section 139. Nonresident employers Employee returns
   Extension of time; Penalties.
- 14 (1) The Secretary, upon request of a taxpayer required
  15 by section 137 of this chapter to make returns, may
  16 permit semiannual returns and payments of tax with
  17 respect to salaries and wages, and in granting such
  18 permission shall fix the date or dates for such filing

of returns and payment of taxes. 1 2 (2) The Secretary, for good cause, may extend the time 3 for making returns and payments, but not beyond the 4 twentieth day of the second month succeeding the regular 5 due date thereof. 6 (3) Failure to comply with the provisions of 7 sections 137, 138, and 139 of this chapter 8 shall be punishable under the penalties 9 prescribed in this [chapter] title." Section 3. Section 144 of title 54 of the Code of the 10 11 Federated States of Micronesia, as amended, is further amended to 12 read as follows: 13 "Section 144. Liability for payment of tax; Penalties. 14 (1) Every business shall be liable for the payment of 15 the tax required to be deducted and paid by it to the Government. 16 17 (2) Failure to comply with the provisions of this section shall be punishable under the penalties 18 19 prescribed by this [chapter] title." Section 4. Section 155 of title 54 of the Code of the 20 Federated States of Micronesia, as amended, is hereby further 21 2.2 amended to read as follows: 23 "Section 155. Civil penalties. 24 The criminal penalties imposed by section 154 of this 25 chapter for violation of provisions of this chapter 26 shall be separate from, and in addition to, all other

penalties or interest provided for in this section. The following civil penalties are hereby levied and shall be assessed and collected by this Secretary:

- (1) Failure to file return on time. Except as may be permitted by the Secretary pursuant to sections 139 and 143 of this chapter, if any taxpayer fails to make and file a return required under this chapter on or before the date set, unless prior to that date such taxpayer applied for and received an extension for reasonable cause, one percent of the tax shall be added for each 30 days or fraction thereof elapsing between the due date of the return and the date on which it is actually filed; provided, however, that the minimum penalty under this subsection shall be five dollars and the maximum penalty under this section shall be 25 percent of the tax due.
- (2) Failure by employer to file statement. Any employer require to furnish a written statement prescribed in section 133 of this chapter who willfully failed to file such statements on the date prescribed thereof, except with regard to any extension of time for filing, shall be subject to a five dollar penalty for each such statement not so filed.
- (3) Failure to file after demand. Where taxpayer fails to file return and pay tax after demand in any case where the Secretary makes a return and assesses a

tax after a taxpayer's failure or refusal to make and
file a return and pay the tax required by this chapter,

[25] 10 percent of the tax assessed, in addition to the
penalties of subsection (1) of this section, shall be
added thereto.

- (4) False and fraudulent returns. If any part of any deficiency is due to fraud with intent to evade the tax, or any portion thereof, 50 percent of the total amount of such deficiency, in addition to the penalties provided in subsections (1), (2), and (3) of this section, shall be assessed and added to the deficiency assessment.
- (5) Interest. If any tax [or penalty] imposed by this chapter is not paid on or before the date prescribed for such payment, there shall be collected, in addition to such tax and any penalties assessed, interest on the unpaid balance of the tax principal at the rate of six percent per annum from its due date until the date it is paid."
- Section 5. Section 902 of title 54 of the Code of the
  Federated States of Micronesia, as amended, is hereby further
  amended to read as follows:
- "Section 902. <u>Monthly penalty upon unpaid taxes and</u> fees.
- 25 <u>(1)</u> In case of failure to pay any tax, [fee, or charge] levied or imposed under this title when due,

1	there shall be added to the amount due $[\frac{10}{10}]$ five percent
2	of the <u>principal</u> amount of such tax, [ <del>fee, or charge</del> ] if
3	the failure is not for more than one month, with an
4	additional $[\frac{10}{2}]$ one percent for each additional month or
5	fraction thereof during which such failure continues,
6	not exceeding $[\frac{100}{25}]$ percent in the aggregate, in
7	addition to any penalties assessed under section 155 of
8	this title."
9	Section 6. 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, and shall apply retroactively
12	to any tax returns that have not yet been filed and taxes that
13	have not yet been paid as of said effective date.
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15	Date: 4/5/04 Introduced by: /s/ Isaac V. Figir
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