A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by adding a new chapter 3 to establish an income tax for corporations, and for other purposes.

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

Section 1. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new chapter 3 entitled "Income Tax Regime for FSM Corporations".

Section 2. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 311 of chapter 3 to read as follows:

"Section 311. Short title. This chapter may be cited as the 'Corporate Income Tax Act of 2004'."

Section 3. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 312 of chapter 3 to read as follows:

"Section 312. Definitions.

(1) A 'control group' for purposes of this chapter shall mean the corporation and its 80% or greater owned subsidiaries, its parent companies that own directly or indirectly 80% or more of the corporation, and the 80% or greater owned subsidiaries of such parent companies.

(2) 'Secretary' means the Secretary of the Department of Finance and Administration."
Section 4. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 313 of chapter 3 to read as follows:

"Section 313. Applicability of this chapter. Taxes imposed under this chapter shall apply to all corporations unless:

(1) the corporation’s shareholder equity or paid-in capital as of the beginning of its taxable year is less than $1,000,000; or

(2) the shareholder equity or paid-in capital of the corporation’s control group is less than $10,000,000; or

(3) the corporation is principally engaged in business in the Federated States of Micronesia as a bank as such term is defined in 29 F.S.M.C. §102(1); or

(4) the corporation was formed under the laws of the Federated States of Micronesia prior to January 1, 2005."

Section 5. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 314 of chapter 3 to read as follows:

"Section 314. Filing of report. A corporation that is subject to taxation under this chapter shall file an initial written report with the Secretary. The written report shall be signed by the authorized representative of the corporation and shall state:
(1) the true and correct name of the corporation;
(2) the taxpayer identification number or other identifying number, if any, of the corporation;
(3) the mailing and office address of the corporation;
(4) the name, address, telephone, and fax numbers of the designated agent for the corporation;
(5) the nature of the corporation's principal business; and
(6) the last day of the corporation's taxable year for which the report is being filed.

(7) The report shall be filed by the corporation within sixty (60) days after the corporation becomes subject to this chapter.

Section 6. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 315 of chapter 3 to read as follows:

"Section 315. Continued applicability of this chapter. A corporation subject to taxation under this chapter shall continue to be subject to taxation under this chapter through the last day of the taxable year in which it meets the criteria set forth in section 311 on any day of such taxable year."

Section 7. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 321 of chapter 3 to read as follows:
"Section 321. Tax imposed. A tax at the rate of twenty-five and a half percent (25.5%) is hereby imposed for each taxable year on the taxable income of every corporation subject to taxation under this chapter."

Section 8. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 322 of chapter 3 to read as follows:

"Section 322. Taxable income defined. The taxable income of a corporation subject to taxation under this chapter equals its income before income taxes for the taxable year, as determined under Generally Accepted Accounting Principals, consistently applied ("GAAP"), as GAAP is regularly utilized in the country of incorporation or country of citizenship of the corporation’s principal shareholder."

Section 9. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 331 of chapter 3 to read as follows:

"Section 331. Non-refundable credit for payment of foreign taxes. In the case of a corporation subject to taxation under this chapter, any income taxes paid or accrued on the taxable income during the taxable year to a foreign country shall be allowed as a credit against the amount of tax imposed by section 321. In the case of a dividend received by a corporation, a credit shall
also be allowed against the amount of tax imposed by
section 321 in an appropriate amount to reflect any
income taxes the corporation can demonstrate have been
paid with respect to such dividend to any foreign
country or countries. In no case shall a corporation,
in any taxable year, be entitled to credits which, in
the aggregate, exceed the amount of the tax imposed, for
that taxable year, under the provisions of section 321
of this chapter. No foreign tax credit shall be
permitted to create a refund or credit for overpayment
of tax; but any amount of foreign tax not creditable by
reason of this provision may be carried forward as a
creditable foreign tax to each succeeding year until
fully utilized subject to the same restrictions in the
succeeding years."

Section 10. Title 54 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 332 of chapter 3 to read as follows:

"Section 332. Refundable Credit for overpayment of tax.
In the case of any overpayment by a corporation of tax
imposed by section 321, the amount of such overpayment
shall be refunded to the corporation or shall be applied
to any tax liability owed by the corporation to the
Federated States of Micronesia."
Section 11. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 341 of chapter 3 to read as follows:

"Section 341. Accounting period; taxable year defined. Taxable income shall be computed on the basis of the corporation’s annual accounting period as utilized for financial accounting purposes, which may be the calendar year or a fiscal year. This period shall serve as the corporation’s taxable year for purposes of this chapter. The term 'calendar year' means a period of 12 months ending on December 31. The term 'fiscal year' means a period of 12 months ending on the last day of any month other than December. A corporation using a calendar year or a fiscal year may, at its option, convert from a calendar year to a fiscal year or from a fiscal year to a calendar year, provided, however, that such a conversion may not be done more than once during any sixty (60) month period without the advance written consent of the Secretary."

Section 12. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 342 of chapter 3 to read as follows:

"Section 342. Method of accounting. The taxable income of a corporation shall be computed under the methods of accounting on the basis of which the corporation
regularly computes its income in keeping its books under GAAP. To the extent permitted by GAAP, a corporation may compute its taxable income under any of the following methods of accounting:"

(1) the cash receipts and disbursements method;

(2) an accrual method;

(3) any combination of the foregoing methods or any other method selected by the corporation.

To the extent permitted by GAAP, a corporation using any one of the above methods may, at its option, convert to another one of the above methods, provided, however, that such a conversion may not be done more than once during any sixty (60) month period without the advance written consent of the Secretary."

Section 13. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 351 of chapter 3 to read as follows:

"Section 351. Filing of annual returns. Every corporation subject to taxation under this chapter shall prepare and file with the Secretary an annual income tax return on a form approved by the Secretary, which return shall be signed by the corporation’s authorized representative. This form shall be filed with the Secretary, together with a copy of the corporation’s financial statements acceptable to the Secretary, by the
Section 14. Title 54 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 352 of chapter 3 to read as follows:

"Section 352. Payment of tax due. Within 30 days of the close of the corporation’s taxable year, the corporation shall pay its estimated amount of the tax due for that year (the 'estimated amount'). Any additional tax due as shown on the annual income tax return of the corporation shall be paid by the last business day of the sixth month following the close of the corporation’s taxable year. If the additional tax due as indicated on the annual income tax return is more than 10% of the estimated tax amount paid, the corporation shall also pay interest on the additional tax due at the rate of two-thirds of one percent per month, or fraction of a month, from the due date of the estimated tax amount to the date the additional tax due is paid."

Section 15. 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: 9/2/04

Introduced by: /s/ Sabino S. Asor

Sabino S. Asor

/s/ Alik L. Alik

Alik L. Alik