

A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending section 141 thereof to create a limited exemption from the tax on gross revenues for businesses involving significant investment from outside the Federated States of Micronesia, and for other purposes.

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

1           Section 1. Purpose. The purpose of this Act is to encourage  
2 foreign investment in the Federated States of Micronesia. In  
3 order to meet the needs of a growing population, the National  
4 Government of the Federated States of Micronesia is committed to  
5 fostering an environment in which new businesses will be  
6 established, existing businesses will grow and prosper, and  
7 adequate employment opportunities will be created for the citizens  
8 of the FSM. It is unlikely that the nation's objectives will be  
9 met if economic activity in the nation is limited to that which  
10 can be supported by indigenous resources. Therefore, it is in the  
11 best interests of the FSM and its people that incentives be  
12 provided for foreign individuals and enterprises to invest and do  
13 business in the FSM.

14           Investment in the FSM can be made more attractive to foreign  
15 parties by reducing the tax burden imposed on new businesses with  
16 substantial foreign ownership. Exemption of such businesses from  
17 the gross revenue tax, for a period of time, will help to offset  
18 the start-up costs that can erode the profitability of a new  
19 business. This Act establishes the availability of such an

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1 exemption for qualifying businesses. It is the intention that  
2 this exemption will be granted only to businesses that both bring  
3 to the FSM substantial new foreign investment and have a  
4 significant potential for contributing to growth of the nation's  
5 economy. It is not the intention of this Act to provide foreign  
6 businesses with a competitive advantage over locally-owned  
7 enterprises. The Act should be applied with due consideration for  
8 the interests of local businesses and for the public interest in  
9 the viability of such businesses.

10 Section 2. Section 141 of title 54 of the Code of the  
11 Federated States of Micronesia, as amended by Public Laws 5-84 and  
12 14-90, is hereby further amended to read as follows:

13 "Section 141. Tax on gross revenues; Exemption.

14 (1) There shall be assessed, levied, collected, and  
15 paid a tax of \$80 per year upon that portion of the  
16 amount of gross revenues earned by every business  
17 subject to the provisions of this chapter which does not  
18 exceed \$10,000 per year.

19 (2) There shall be assessed, levied, collected, and  
20 paid a tax of three percent per year upon that portion  
21 of the amount of gross revenues earned by every business  
22 subject to the provisions of this chapter which is in  
23 excess of \$10,000 per year.

24 (3) Businesses which earn gross revenues of not more  
25 than \$2,000 per year are exempt from taxation under this  
26 section. The deduction shall be claimed by the business

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1 by filing for a refund under the provisions of sections  
2 122 and 123 of this chapter.

3 (4) There is hereby established an exemption from the  
4 gross revenues tax for eligible businesses involving  
5 significant foreign investment. No business shall be  
6 eligible for an exemption under this subsection, except  
7 during its first five years of doing business in the  
8 Federated States of Micronesia. No business shall be  
9 eligible for an exemption under this subsection unless  
10 persons or enterprises having residences and principal  
11 places of business outside the Federated States of  
12 Micronesia own a 30 percent or greater ownership  
13 interest and have contributed 30 percent or more of the  
14 capital used in the business. The President or his  
15 designee shall have the authority to negotiate with  
16 potentially-eligible businesses and enter into exemption  
17 agreements consistent with the requirements of this  
18 subsection, which agreements shall be subject to the  
19 approval of Congress by resolution. The exemption  
20 provided for in the agreement may be for the full amount  
21 of the tax that would otherwise be imposed or for a part  
22 thereof, and may be for five years or for a lesser  
23 period. The exemption agreement may provide that the  
24 exemption is wholly or partially subject to the  
25 business' meeting conditions specified in the agreement.  
26 In determining whether to enter into an exemption

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1           agreement with a business and in determining the extent  
2           and duration of any such exemption, the President or his  
3           designee shall take into consideration the following  
4           factors:

5                       (i) the nature and extent of foreign  
6           ownership and investment in the business;

7                       (ii) the number of citizens of the  
8           Federated States of Micronesia that will be employed by  
9           the business;

10                      (iii) the amount of revenue the business is  
11           likely to generate from sources outside the Federated  
12           States of Micronesia;

13                      (iv) the potential contribution of the  
14           business to the growth of the nation's economy;

15                      (v) whether the granting of a tax  
16           exemption to the business would give it an advantage  
17           over other companies with which it would compete in the  
18           Federated States of Micronesia; and

19           (i) such other factors as may effect the public  
20           interest.

21           ~~[(4)]~~(5) For the purpose of section 805 of this title,  
22           every business that operates in more than one State of  
23           the Federated States of Micronesia shall file a separate  
24           tax return for revenue collected in each State."

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

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Date: 11/30/09

Introduced by: /s/ Isaac V. Figir  
Isaac V. Figir