
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 providing 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. Title 54 of the Code of the Federated States of
2 Micronesia (Annotated), is hereby further amended by creating a
3 new chapter 6 entitled "Access and Exchange of Information."

4 Section 2. Title 54 of the Code of the Federated States of
5 Micronesia (Annotated), is hereby further amended by inserting a
6 new section 601 of chapter 6, to read as follows:

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

9 Section 3. Title 54 of the Code of the Federated States of
10 Micronesia (Annotated), as amended, is hereby further amended by
11 creating a new section 602 of chapter 6, to read as follows:

12 "Section 602. Definitions.
13 Wherever used in this chapter, except where otherwise
14 specified, unless the subject matter, context, or sense
15 otherwise requires:

16 (1) "Business" includes any profession, trade,
17 manufacture, or other undertaking carried on for

1 pecuniary profit in the Federated States of Micronesia,
 2 but not including employment.

3 (2) "Customs and Tax Administration" means the
 4 division in the Department of Finance that is charged
 5 with administration of national tax laws. It is headed
 6 by an assistant secretary.

7 (3) 'Entity' means a company, corporation,
 8 partnership, unincorporated association or other
 9 business entity, trust, or estate that:

10 (a) is registered in the Federated States of
 11 Micronesia;

12 (b) has a permanent establishment in the
 13 Federated States of Micronesia;

14 (c) owns assets in the Federated States of
 15 Micronesia; or

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

18 (4) 'Secretary' means the Secretary of the Department
 19 of Finance and Administration."

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

23 "Section 603. Availability of Information.

24 (1) Every business or entity, on or before January 31
 25 each year, shall provide complete ownership and identity

1 information to the Customs and Tax Administration. The
 2 ownership information shall be on a form approved by the
 3 Secretary and shall contain such information as may be
 4 required.

5 (2) Any corporation that has provided ownership
 6 information to the FSM National Registrar of
 7 Corporations within the previous year may file for an
 8 exemption from the requirements of subsection (1) of
 9 this section. The exemption request shall be on a form
 10 approved by the Secretary and shall contain such
 11 information as the Secretary may require.

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

15 Section 5. 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 604 of chapter 6, to read as follows:

18 "Section 604. Accounting Records.

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

21 (a) Correctly explain all transactions;

22 (b) Enable the financial position of the
 23 business or entity to be determined with reasonable
 24 accuracy; and

25 (c) Allow financial statements to be prepared.

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

4 (3) The Secretary may by regulation provide for
 5 simplified accounting record retention requirements for
 6 small businesses and entities.”

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

10 “Section 605. Exchange of Information.

11 (1) Subject to ratification by Congress, the
 12 Executive branch may negotiate and execute treaty with
 13 another country on the exchange of tax information. Upon
 14 entry into force of such treaty, the Secretary may enter
 15 into agreement or agreements with foreign counterpart to
 16 implement the terms of treaty.

17 (2) Any exchange of information concluded with other
 18 nation under subsection (1) or subsection (2) of this
 19 Section shall provide for reasonable safeguards against
 20 unauthorized or improper disclosure of confidential
 21 information.

22 (3) Any exchange of information pursuant to an
 23 agreement entered into under subsection (1) or
 24 subsection (2) of this section shall be exempt from any
 25 confidentiality or secrecy provisions provided for by

1 law, but only to the extent permitted under treaty or
2 agreement.”

3 Section 7. 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 606 of chapter 6, to read as follows:

6 “Section 606. Power to Obtain Tax Information.

7 (1) The Secretary shall have authority to use any
8 statutory powers to the extent granted in this title to
9 obtain access to tax information for the purpose of
10 complying with a request for exchange of tax
11 information, including:

12 (a) powers to summon persons to provide
13 testimony or provide documents;

14 (b) powers to summon third parties to provide
15 testimony or provide documents;

16 (c) powers of access to records; and

17 (d) powers of and seizure.

18 (2) Any substantive restrictions or procedural
19 requirements associated with the exercise of statutory
20 access powers for a domestic tax purpose shall apply in
21 a like manner when exercising such powers for the
22 purpose of complying with a request for exchange of tax
23 information.

24 (3) The powers provided by this section shall be
25 exercised subject to such privileges as may be

1 recognized by the FSM Supreme Court, but shall not be
 2 subject to contractual duties of confidentiality, and
 3 shall not be subject to professional ethical
 4 requirements not recognized by the law of privilege."

5 Section 8. Title 54 of the Code of the Federated States of
 6 Micronesia (Annotated), as amended, is hereby further amended by
 7 inserting a new section 607 of chapter 6, to read as follows:

8 "Section 607. Civil Penalty.
 9 If any business or entity fails to provide ownership and
 10 identity information as required under this chapter on
 11 or before the date set, unless prior to that date such
 12 taxpayer applied for and received an extension for
 13 reasonable cause, the business or entity shall pay a
 14 penalty of \$100 per month until such information is
 15 provided."

16 Section 9. 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 608 of chapter 6, to read as follows:

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

25 Section 10. 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 609 of chapter 6, to read as follows:

3 "Section 609. The Secretary may adopt, amend, or
4 rescind regulations for the administration of this
5 chapter pursuant to chapter 1 of title 17 of this code".

6 Section 11. This act shall become law upon approval by the
7 President of the Federated States of Micronesia or upon its
8 becoming law without such approval.

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10 Date: 11/04/16

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper
(by request)

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