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:

Section 1. Title 54 of the Code of the Federated States of Micronesia (Annotated), is hereby further amended by creating a new chapter 6 entitled “Access and Exchange of Information.”

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

“Section 601. Short title. This chapter may be cited as the ‘Exchange of Tax Information Act of 2016’.”

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

“Section 602. Definitions.

Wherever used in this chapter, except where otherwise specified, unless the subject matter, context, or sense otherwise requires:

(1) “Business” includes any profession, trade, manufacture, or other undertaking carried on for
pecuniary profit in the Federated States of Micronesia, but not including employment.

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

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

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

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

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

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

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

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

"Section 603. Availability of Information.

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

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

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

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

Section 5. Title 54 of the Code of the Federated States of
Micronesia (Annotated), as amended, is hereby further amended by
inserting a new section 604 of chapter 6, to read as follows:

“Section 604. Accounting Records.

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

(a) Correctly explain all transactions;
(b) Enable the financial position of the
business or entity to be determined with reasonable
accuracy; and

(c) Allow financial statements to be prepared.
(2) Every business or entity shall maintain underlying documents of all transactions such as invoices and contracts for a period of six years.

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

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

“Section 605. Exchange of Information.

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

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

(3) Any exchange of information pursuant to an agreement entered into under subsection (1) or subsection (2) of this section shall be exempt from any confidentiality or secrecy provisions provided for by
law, but only to the extent permitted under treaty or agreement.”

Section 7. Title 54 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting a new section 606 of chapter 6, to read as follows:

“Section 606. Power to Obtain Tax Information.

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

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

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

(c) powers of access to records; and

(d) powers of and seizure.

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

(3) The powers provided by this section shall be exercised subject to such privileges as may be
recognized by the FSM Supreme Court, but shall not be
subject to contractual duties of confidentiality, and
shall not be subject to professional ethical
requirements not recognized by the law of privilege.”

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

“Section 607. Civil Penalty.
If any business or entity fails to provide ownership and
identity information as 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, the business or entity shall pay a
penalty of $100 per month until such information is
provided.”

Section 9. Title 54 of the Code of the Federated States of
Micronesia (Annotated), as amended, is hereby further amended by
inserting a new section 608 of chapter 6, to read as follows:

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

Section 10. Title 54 of the Code of the Federated States of
Micronesia (Annotated), as amended, is hereby further amended by inserting a new section 609 of chapter 6, to read as follows:

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

Section 11. 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: 11/04/16

Introduced by: /s/ Florencio S. Harper

Florencio S. Harper
(by request)