

AN ACT

To amend sections 312, 313, 314, 322, 331, 352 and 360 of title 54 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 13-71, and as amended by Public Law Nos. 14-110, 16-19, 16-52 and 17-73, to include Major FSM Branches, and for other purposes.

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

1 Section 1. Section 312 of title 54 of the Code of the
2 Federated States of Micronesia, as amended by Public Laws Nos.
3 14-110 and 16-52, is hereby further amended to read as follows:

4 "Section 312. Definitions.

5 (1) 'Control group' of a corporation for purposes of
6 this chapter shall mean a group of corporations
7 comprising of:

8 (a) the corporation,

9 (b) other corporations in which the corporation
10 owns directly or indirectly 80% or more of the shares,

11 (c) other corporations that own directly or
12 indirectly 80% or more of the shares of the corporation,
13 and,

14 (d) corporations other than the corporation
15 described in paragraph (a) of this section or
16 corporations described in paragraph (b) of this section,
17 or corporations where 80% or more shares are owned
18 directly or indirectly by the corporations described in
19 paragraph (c) of this section.

20 (2) 'Major Corporation' means any corporation not

1 principally engaged in business in the Federated States
2 of Micronesia as a bank (as such term is defined in
3 title 29 of the Code of the Federated States of
4 Micronesia, section 102(1)), formed on or after January
5 1, 2005, and,

6 (a) whose shareholders equity or paid-Capital as
7 of the beginning of its fiscal year is \$1,000,000 or
8 more; or

9 (b) the aggregate amount of the shareholders
10 equity or Paid-in Capital of the control group is
11 \$10,000,000 or more; or

12 (c) that is a captive insurance company licensed
13 pursuant to title 37 of the Code of the Federated States
14 of Micronesia regardless of the amount of
15 capitalization.

16 (3) 'Major FSM Branch' means any corporation not
17 principally engaged in business in the Federated States
18 of Micronesia as a bank (as such term is defined in
19 title 29 of the Code of the Federated States of
20 Micronesia, section 102(1) authorized by law to issue
21 stock, organized under laws other than the laws of the
22 Federated States of Micronesia for a purpose or purposes
23 for which a corporation may be organized under the laws
24 of the Federated States of Micronesia, section 102(1),
25 which has a Permanent Establishment in the Federated

1 States of Micronesia and whose Paid-in Capital as of the
2 beginning of its fiscal year is \$1,000,000 or more.

3 (4) 'Permanent Establishment' means a fixed
4 place of business through which the business of an
5 enterprise is wholly or partly carried on.

6 (5) 'Secretary' means the Secretary of the Department
7 of Finance and Administration.

8 (6) 'Taxable Year' shall means the fiscal year of a
9 Major Corporation or Major FSM Branch, as the case may
10 be, as reported under section 314 of this chapter.

11 (7) 'Paid-in Capital' for purpose of this chapter
12 shall mean: (I) in the case of a Major Corporation, the
13 total amount of consideration contributed to the company
14 for the issuance of shares; and (II) in the case of a
15 Major FSM Branch, the total amount of Domestic Capital
16 (as defined in section 314(2) registered with the
17 Registrar of Corporation."

18 Section 2. Section 313 of title 54 the Code of the Federated
19 States of Micronesia, as amended by Public Laws Nos. 14-110, 16-19
20 and 16-52, is hereby further amended to read as follows:

21 "Section 313. Applicability of this chapter. Taxes
22 imposed under this chapter shall apply to all Major
23 Corporations as defined in section 312. In case of
24 conflict, this chapter shall prevail over other laws or
25 regulations of the Federated States of Micronesia.

1 Section 3. Section 314 of title 54 of the Code of the
2 Federated States of Micronesia, as enacted by Public Laws Nos.
3 13-71, is hereby amended to read as follows:

4 "Section 314. Filing of report. A major corporation
5 shall file an initial written report with the Secretary.
6 The written report shall be signed by the authorized
7 representative of the major corporation and shall state:

8 (1) A Major Corporation that is a Domestic_Corporation
9 shall file an initial written report with the Secretary.
10 The written report shall be signed by the authorized
11 representative of the Major Corporation and shall state:

12 (a) the true and correct name of the Major
13 Corporation;

14 (b) the taxpayer identification number or other
15 identifying number, if any, of the Major Corporation;

16 (c) the mailing and office address of the Major
17 Corporation;

18 (d) the name, address, telephone, and fax numbers
19 of the authorized representative for the Major
20 Corporation;

21 (e) the nature of the Major Corporation's
22 principal business; and

23 (f) the last day of the Major Corporation's
24 fiscal year. The report shall be filed by the Major
25 Corporation within sixty (60) days of the Major

1 Corporation becoming subject to this chapter."

2 (2) Every Foreign Corporation which undertakes to do
3 or carry on business in the Federated States of
4 Micronesia as a Major Corporation shall be permitted to
5 do so upon:

6 (a) remitting the sum of \$1,000,000 or more (or
7 its equivalent in another currency) to a commercial bank
8 licensed to business in the Federated States of
9 Micronesia, hereinafter referred to as a "Licensed
10 Bank", as initial capital for the purpose of doing or
11 carrying on business in the Federated States of
12 Micronesia;

13 (b) registering such amount as its initial
14 domestic capital ("Domestic Capital") by filing with the
15 Registrar of Corporations a copy of a statement prepared
16 by such Licensed Bank duly confirming its receipt from
17 the corporation of such Domestic Capital;

18 (c) filing with the Registrar of Corporations a
19 declaration stating:

20 (i) the true and correct name of the
21 corporation;

22 (ii) the state or country wherein it was
23 incorporated;

24 (iii) the location and address of its
25 principal office;

1 (iv) the location and address of its branch
2 office in the Federated States of Micronesia, including
3 its mailing address;

4 (v) the names and addresses of its officers
5 and directors;

6 (vi) the nature of the corporation's
7 principal business (unless otherwise stated in the
8 Certificate of Incorporation, Charter, Articles of
9 Association or equivalent document to be filed pursuant
10 to paragraph (d) of this subsection);

11 (vii) its Domestic Capital which shall be
12 \$1,000,000 or more;

13 (viii) the name and branch address of the
14 licensed Bank which received the Domestic Capital;

15 (ix) the name, citizenship and business
16 address of the person residing within the Federated
17 States of Micronesia, or notices from officials of t he
18 Federated States of Micronesia, may be served;

19 (x) the last day of the corporation's fiscal
20 year; and

21 (d) filing with the Registrar of Corporations a
22 copy of the corporation's Certificate of Incorporation,
23 Charter, Articles of Association or equivalent
24 document."

25 Section 4. Section 322 of title 54 of the Code of the

1 Federated States of Micronesia, as amended by Public Law No.
2 16-52, is hereby further amended to read as follows:

3 "Section 322. Taxable income defined.

4 (1) The taxable income of a Major Corporation equals
5 its income, before income taxes, earned in the taxable
6 year as determined under International Financial
7 Reporting Standard ('IFRS') or Generally Accepted
8 Accounting Principles ('GAAP'), as IFRS or GAAP, as the
9 case may be, is regularly utilized to calculate taxable
10 income in the Major Corporation corporation's principal
11 shareholder's, if a corporation, place of incorporation
12 or, if an individual, country of primary residence.

13 (2) The taxable income of a Major FSM Branch equal its
14 income, before income taxes, earned in the taxable year
15 as determined under IFRS or GAAP, as IFRS or CAAP, as
16 the case may be, is regularly utilized to calculate
17 taxable income in the place of incorporation of the
18 Major FSM Branch, and attributable to a Permanent
19 Establishment in the Federated State of Micronesia
20 through which the corporation carried on its business."

21 Section 5. Section 331 of title 54 of the Code of the
22 Federated States of Micronesia, as amended by Public Law No.
23 16-52, is hereby amended to read as follows:

24 "Section 331. Non-refundable credit for payment of
25 foreign taxes.

1 (1) In the case of a Major Corporation, any income
2 taxes paid or accrued on taxable income during the
3 taxable year to a foreign country shall be allowed as a
4 credit against the amount of tax imposed by section 321.

5 (2) In the case of a dividend received by a Major
6 Corporation or Major FSM Branch, a credit shall also be
7 allowed against the amount of tax imposed by section 321
8 in an appropriate amount to reflect any income taxes the
9 Major Corporation or Major FSM Branch, as the case may
10 be, can demonstrate have been paid with respect to such
11 dividend to any foreign country or countries.

12 (3) In no case shall a Major Corporation or Major FSM
13 Branch, in any taxable year, be entitled to credits
14 which, in the aggregate, exceed the amount of the tax
15 imposed, for that taxable year, under the provisions of
16 section 321 of this chapter.

17 (4) No foreign tax credit shall be permitted to create
18 a refund or credit for overpayment of tax; but any
19 amount of foreign tax not creditable by reason of this
20 provision may be carried forward as a creditable foreign
21 tax to each succeeding year until fully utilized subject
22 to the same restrictions in the succeeding years. In no
23 event, however, shall any such foreign tax credit be
24 carried forward more than seven (7) years."

25 Section 6. Section 352 of title 54 of the Code of the

1 Federated States of Micronesia, as amended by Public Law No.
2 16-52 and 17-73, is hereby further amended to read as follows:

3 "Section 352. Payment of tax due. Taxes shall be paid
4 as follows:

5 (1) Each Major Corporation and Major FSM Branch shall,
6 pay fifty percent (50%) of the tax it paid for the
7 income of the previous fiscal year, if any, hereinafter
8 referred to as "Tax Deposit", to the FSM by the end of
9 the eighth (8th) month of the current fiscal year. This
10 is unless the Major Corporation or Major FSM Branch, as
11 the case may be, requests a reduction or waiver as the
12 Tax Deposit is rendered unnecessary because the expected
13 tax payable in the current fiscal year is less than the
14 amount of the Tax Deposit. Reduction or waiver of the
15 Tax Deposit is subject to approval by the Secretary;
16 however, such approval must not be unreasonably
17 withheld.

18 (2) A Major Corporation or Major FSM Branch which pays
19 an amount less than the Tax Deposit shall pay interest
20 on the delinquent tax balance of one-half of one percent
21 (0.5%) for each full month until the full amount is paid
22 unless approval is granted under subsection (1) of this
23 section).

24 (3) A Major Corporation that does not have a previous
25 fiscal year to determine its Tax Deposit either because

1 it is newly formed or is redomesticating into the
2 Federated States of Micronesia or a Major FSM Branch
3 that does not have previous fiscal year to determine its
4 tax Deposit because it newly created a Permanent
5 Establishment in the Federated States of Micronesia,
6 shall be exempt from the payment of Tax Deposit and any
7 filing requirements pertaining to the Tax Deposit.

8 (4) A Major Corporation and Major FSM Branch shall
9 complete and submit to the Department of Finance and
10 Administration an annual statement declaring the taxable
11 income with permitted deductions and exemptions,
12 hereinafter referred to as "Tax Return", by the last
13 business day of the sixth month period following the
14 last day of the fiscal year of the Major Corporation or
15 Major FSM Branch, respectfully. The annual statement
16 shall be accompanied by one of the following:

17 (a) Any additional tax payment, after the
18 subtraction of the Tax Deposit, due as shown on the Tax
19 Return of the Major Corporation or Major FSM Branch, as
20 the case may be, shall be paid by the last business day
21 of the sixth month period following the last day of the
22 fiscal year of the Major Corporation or Major FSM
23 Branch, respectfully.

24 (b) If the Major Corporation or Major FSM Branch
25 pays, including the Tax Deposit by the end of the eighth

1 (8th) month during the fiscal year, as per sub-section 1
2 above, an amount less than the tax due as shown on the
3 annual tax return by the last business day of the six
4 month period following the last day of the fiscal year
5 of the Major Corporation or Major FSM Branch,
6 respectfully, it shall pay interest on the delinquent
7 tax balance of one half of one percent (0.5%) for each
8 full month until the full amount is paid.

9 (5) Should the Tax Deposit paid by the Major
10 Corporation or Major Branch exceed the total annual
11 income tax amount shown on the Tax Return resulting in
12 overpayment of tax, then the Major Corporation or Major
13 FSM Branch, as the case may be shall be entitled to
14 their rights conferred under section 332, chapter 3 of
15 title 54 of the Code of the Federated States of
16 Micronesia. A Major Corporation or Major FSM Branch
17 shall apply to the Department of Finance and
18 Administration for either of the following tax treatment
19 options provided under Section 332 by indicating their
20 choice in the Tax Return form:

21 (a) To have the overpaid tax amount refunded in
22 full, in which case, the Department of Finance and
23 Administration shall credit the bank account of Major
24 Corporation or Major FSM Branch, as the case may be,
25 within a two (2) month period from the last business of

1 the sixth month period following the last day of the
2 fiscal year of Major Corporation or Major FSM Branch,
3 respectfully;

4 (b) To have the overpaid tax amount credited to
5 any tax payments by the Major Corporation or the Major
6 FSM Branch, as the case may be to the Federated States
7 of Micronesia."

8 Section 7. Section 360 title 54 of the Code of the Federated
9 States of Micronesia, as amended by Public Laws Nos. 16-52 and
10 17-73, is hereby further amended to read as follows:

11 "Section 360. Engaging in business or operating a
12 business in the Federated States of Micronesia. A Major
13 Corporation incorporated in the Federated States of
14 Micronesia or a Major FSM Branch that only holds, buys,
15 sell, transfers or otherwise transacts with overseas
16 Assets (as defined below) is not engaging in business in
17 the Federated States of Micronesia or a business
18 operating in the Federated States of Micronesia for the
19 purposes of section 323 of this chapter or title 32,
20 chapter 2: the Foreign-Investment Act of the Code of the
21 Federated States of Micronesia. For the purposes of
22 this section 360, "Overseas Assets" means assets or
23 property located outside of the Federated States of
24 Micronesia, including but not limited to, businesses,
25 shares, stocks, bonds, annuities, treasury bills,

1 partnership units or trust units, real estate, precious
2 metals, antiques and art.”

3 Section 8. This act shall become law upon approval by the
4 President of the Federated States of Micronesia or upon its
5 becoming law without such approval.

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December 19th _____, 2014

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/s/ Manny Mori
Manny Mori
President
Federated States of Micronesia

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