

STANDING COMMITTEE REPORT NO. 13-202

RE: PRESIDENTIAL COMMUNICATION NO. 13-236/W&M

SUBJECT: VETO OF ACT CREATING CORPORATE INCOME TAX

DECEMBER 15, 2004

The Honorable Peter M. Christian
Speaker, Thirteenth Congress
Federated States of Micronesia
Sixth Special Session, 2004

Dear Mr. Speaker:

Your Committee on Ways and Means, to which was jointly referred Presidential Communication No. 13-236 conveying the President's veto of C.A. No. 13-70, entitled

"AN ACT TO FURTHER AMEND TITLE 54 OF THE CODE OF THE
FEDERATED STATES OF MICRONESIA BY ADDING A NEW CHAPTER 3 TO
ESTABLISH AN INCOME TAX FOR CORPORATIONS, AND FOR OTHER
PURPOSES.",

begs leave to report as follows:

Congress passed C.A. No. 13-70 (C.B. No. 13-141, C.D.2) during the Fourth Regular Session of the Thirteenth Congress. Through Presidential Communication No. 13-236, dated December 10, 2004, the President advised Congress that he had vetoed this act. A copy of C.A. No. 13-70 is attached.

As indicated by its title, C.A. No. 13-70 would amend title 54 of the FSM Code to create a corporate income tax applicable only to "major corporations", as that term is defined in the act.

Your committee's observations and recommendations regarding C.B. No. 13-141 were set forth in SCR No. 13-179. Your committee continues to believe that the subject act presents an opportunity for the FSM to generate much-needed revenues, partially offsetting scheduled decrements in Compact funding. The Executive Branch advised Congress of its reservations concerning C.A. No. 13-70 prior to the act's adoption. In SCR No. 13-179, your committee characterized those reservations as "highly speculative". Nothing in the President's veto message has caused the committee to change its mind in that regard.

The President, in his veto message, states that he is particularly concerned about the administrative burden potentially associated with the monitoring and investigation of large foreign corporations. Your

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committee is satisfied that the potential revenues from the corporate income tax will greatly exceed the costs of administration. Further, your committee notes that registration of these major corporations does not place upon the FSM an obligation to monitor or police the world-wide operations of those companies any more than it now has an obligation to monitor the world-wide operations of Mobil Oil or Continental Airlines, or any other international corporation doing business in or with the FSM. C.A. No. 13-70, and its companion act C.A. No. 13-74, give the Secretary of Finance and the Registrar of Corporations ample power to establish regulations applicable to taxpayers and to require major corporations to provide any necessary information, so that the administrative burden on the National Government will be minimized.

The President also expresses concern that the new corporate income tax will discourage foreign and domestic corporations from investing in the FSM. Your committee notes that no corporation currently doing business in the FSM will be subject to the new tax and it is unaware of any "major corporation", as that term is defined in the act, that is likely to locate in the FSM in the near future. The intent of the bill is not to impose both the corporate income tax and the gross revenues tax on any corporation. At the present time, there is no corporation that would be subject to such double taxation. There will be ample opportunity to amend the law if circumstances in this regard change.

Finally, the President suggests that the adoption of the corporate income tax could give the FSM a bad reputation in the world community. However, the act does nothing more than impose a 25.5% tax rate on major corporations that register in the FSM. That tax rate is intentionally set at a level high enough that the FSM will not be considered a "tax haven". Your committee also observes that, until recently, Singapore had a similar tax, without apparent harm to its international reputation.

The committee will not repeat here its other observations set forth in SCR No. 13-179 other than to emphasize the following: (1) no corporation currently doing business in the FSM will be subject to the tax created by the act; (2) the income tax on major corporations presents the possibility of raising significant additional revenues

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for the FSM at little administrative cost; (3) nothing in C.A. No. 13-70 will prevent or interfere with efforts to accomplish general tax reform in the FSM; and (4) Congress will be free to amend or repeal the act if it concludes, at any time, that the benefits of the tax are outweighed by its costs or disadvantages.

Accordingly, your Committee on Ways and Means remains in accord with the purpose and intent of C.A. No. 13-70 and recommends that the President's veto of that act be overridden, subject to a concurring report from your Committee on Resources and Development.

Respectfully submitted,

/s/ Sabino S. Asor
Sabino S. Asor, chairman

Roosevelt D. Kansou, vice chairman

/s/ Henry C. Asugar
Henry C. Asugar, member

/s/ Peter M. Christian, member
Peter M. Christian, member

Isaac V. Figir, member

/s/ Dohsis Halbert
Dohsis Halbert, member

Claude H. Phillip, member