

C-92-0103

GUAM TAX CODE COMMISSION

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Governor Joseph F. Ada,
Chairman
COMMISSION ON SELF-DETERMINATION
Office of the Governor
Agana, Guam 96910

Dear Governor Ada:

We would like to thank you and the entire Commission on Self-Determination for your long-standing support of and commitment to the Guam Tax Code Commission. Although we are sure that all members of the Commission on Self-Determination are familiar with the issues regarding the income taxation of Guam residents, we have included a brief historical description both for your convenient reference and for the sake of completeness.

Historical Analysis

As you are aware, pursuant to the Organic Act of 1950, a Guam Territorial Income Tax currently is imposed in Guam. The tax is commonly known as the "Mirror Code", because it consists of the provisions of the Internal Revenue Code as mirrored to Guam by substituting the word "Guam" for the words "United States". It is administered by the Government of Guam.

The effect of the Mirror Code in Guam has proved to be problematic since the inception of the tax. For instance, because the Internal Revenue Code is designed with the highly developed U.S. economy in mind, often times the provisions are inappropriate to the special needs of Guam.

Recognizing these difficulties, Congress, as part of the Tax Reform Act of 1986, granted Guam the authority to delink from the Mirror Code and to enact its own tax laws in place of the Internal Revenue Code.

The Guam Tax Code Commission was established by an act of the Guam legislature in May of 1990, in order to guide Guam through the steps necessary for Guam to enjoy its own tax laws. Among the Commission's purposes are studying the effect of Guam's present tax system with a view towards probable future situations, developing an econometric model of Guam's economy for the purpose of evaluating proposed tax systems, and drafting proposed tax



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legislation.

Single filing

The Commission has been in frequent contact with U.S. officials regarding a variety of issues of concern to Guam, including, most importantly, the issue of single filing. As you know, Guam residents currently are required to file only one income tax return, with Guam, on which they must report their worldwide income. Guam residents are relieved from any income tax liability to the United States and, consequently, are not required to file a U.S. income tax return.

However, after delinkage, Guam residents will no longer be able to enjoy the benefits of single filing. Taxpayers will be required to file one return with Guam reporting their worldwide income, and one return with the United States, reporting their U.S. and foreign source income. Although foreign tax credits are available to prevent the double taxation of this income by the United States and Guam, Guam resident still must complete both sets of tax returns. This dual filing requirement not only is unnecessarily complex and burdensome, but also, due to the workings of the foreign tax credit, will result in the double taxation of the foreign source income of Guam residents both by the United States and by the foreign country which was the source of the income.

Corrective Legislation

Members of the Commission have visited Washington on a number of occasions over the past year. On each of these visits, Commission members have discussed Guam's desire to maintain single filing after delinkage. However, as a result of these meetings, the Commission has come to the opinion that single filing cannot be maintained under the existing statutory authority provided by the Tax Reform Act of 1986. Therefore, the Commission has decided to seek corrective legislation.

Because the Tax Code Commission's earlier activities have been analytical and internally focused, it has not been in frequent contact with the Commission on Self-Determination regarding the details of its work. However, as the Tax Code Commission has decided to seek corrective legislation, the members of the Commission believe that it is now timely to share its proposal with you and enlist your support.

The Commission's proposal is designed to ensure that the

