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AND THE WORKFORCE
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Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON INDIAN, INSULAR
AND ALASKA NATIVE AFFAIRS
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COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE
AND MEMORIAL AFFAIRS
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

March 2, 2018

The Honorable Arnold I. Palacios
President of the Senate
Twentieth Northern Marianas
Commonwealth Legislature
P.O. Box 500129
Saipan, MP 96950

The Honorable Rafael S. Demapan
Speaker of the House
Twentieth Northern Marianas
Commonwealth Legislature
P.O. Box 500586
Saipan, MP 96950

Greetings President Palacios and Speaker Demapan:

The Earned Income Tax Credit is an important policy tool that increases household income for families most in need and encourages those not working to get jobs. In 1998, however, Commonwealth Public Law 11-25 cut the amount of the Earned Income Tax Credit (EITC) that can be refunded to taxpayers in the Marianas, thus reducing its effectiveness at encouraging work and pulling people out of poverty. For that reason, I am writing to recommend that the Twentieth Northern Marianas Commonwealth Legislature now repeal Public Law 11-25. Doing so could provide as much as $16 million in tax refunds each year to U.S., working families in the Marianas.

For example, in 2017 the maximum Earned Income Tax Credit was $5,616 for a family of four with income below $50,597. The credit is first used to offset any taxes the family owes. Then, the unused balance is paid to the family as a refund. Commonwealth Public Law 11-25, however, imposes an additional, 100 percent tax on that balance, and deprives families of what could be significant extra income.

The Earned Income Tax Credit is only available to taxpayers who have worked at a job and have earned income. The EITC, thus, encourages those who are not employed to find work so they can benefit from the tax offset and get the refund. Especially today, as we are all trying to find ways to reduce the Marianas' dependence on foreign labor, the EITC should be an important policy tool to bring U.S. workers, now on the sidelines, into the labor market. But the 100 percent tax imposed by Commonwealth Public Law 11-25 makes the EITC less effective and hurts our efforts to have a U.S. dominant workforce.

The Earned Income Tax Credit should be fully available to Commonwealth taxpayers under the terms of our Covenant of Political Union with the United States. Covenant Section 601 stipulates that the income tax laws of the United States come into force as a local territorial income tax on January 9, 1978. This "mirror tax" provision can be put aside by mutual agreement and Congress has authorized delinkage. But the Commonwealth has never acted to delink its income tax system from the federal system. So the EITC, as part of the federal income tax system, remains fully applicable in the Marianas.

Attempts to get the federal government to cover the cost of the EITC in the Marianas have not been successful. The latest Section 902 team made a request for technical and financial assistance to implement the EITC a centerpiece of their consultations with the United States, but were turned away. Last year, territorial Governors requested a separate title in the recently enacted Tax Cuts and Jobs Act to include special rules for economic growth and jobs creation in the insular areas; and I introduced legislation that would achieve this same goal. The current Republican majority in Congress, however, showed no interest in helping us legislatively.

Particularly problematic in making the case for federal financial assistance to the Marianas to cover the cost of the EITC is that Guam and the Virgin Islands, which also operate under the mirror tax system, do pay the EITC with local funds. In fact, in 2001 the Guam Supreme Court ruled that the Government of Guam must under the mirror code requirement pay out the EITC to qualifying residents. This is significant because Covenant Section 601 stipulates that the federal income tax system—of which the EITC is a part—applies to the Commonwealth "in the same manner as those laws are in force in Guam." The ruling suggests Commonwealth Public Law 11-25 is vulnerable to a similar legal challenge.

The legality of Commonwealth Public Law 11-25 is not the real issue, however. The question the Legislature should consider is whether the appropriate public policy today is to make the EITC fully effective in the Marianas. I believe the answer is yes.

Reinstatement of the Earned Income Tax Credit would do much to bring U.S. workers off the sidelines and into jobs in the Marianas and would tie in directly with the strategy behind my legislation, the Northern Mariana Islands U.S. Workforce Act, H.R. 4869. These workers would benefit individually; and the Marianas would reduce our economic dependence on foreign labor and lessen the uncertainties of being subject to federal immigration law.

Most important, ending the tax on the Earned Income Tax Credit would lift household incomes and raise the standard of living for many of our families.

I urge you to repeal Commonwealth Public Law 11-25 and to make the Earned Income Tax Credit fully available to the people of the Marianas.

Sincerely,

Kilili

GREGORIO KILILI CAMACHO SABLAN
Member of Congress

cc: Governor Ralph DLG Torres