

A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending sections 112, 141, and 143 thereof to modify the taxation of businesses, and for other purposes.

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

1           Section 1. Section 112 of title 54 of the Code of the  
2 Federated States of Micronesia, as amended by Public Laws Nos. 10-  
3 93, 10-149 and 12-18, is hereby further amended to read as  
4 follows:

5           "Section 112. Definitions. Wherever used in this  
6 chapter, unless the subject matter, context, or sense  
7 otherwise requires:

8           (1) 'Business' means any profession, trade,  
9 manufacture, or other undertaking carried on for  
10 pecuniary profit and includes all activities whether  
11 personal, professional, or incorporated, carried on  
12 within the Federated States of Micronesia for economic  
13 benefit either direct or indirect, and excludes casual  
14 sales, as determined by the Secretary; however, one who  
15 qualifies as an employee under this section shall not be  
16 considered as a business. Copra production by  
17 unincorporated copra producers collectively or severally  
18 shall not be included as a business under this  
19 definition.

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1           (2) 'Citizen Employee' means any Employee who is a  
2           citizen of the Federated States of Micronesia.

3           ~~[(2)]~~ (3) 'Commercial aircraft' means any aircraft  
4           capable of and intended for use in commercial aviation.

5           ~~[(3)]~~ (4) 'Employee' means any individual who, under the  
6           usual common law rules applicable in determining the  
7           employer-employee relationship, has the status of an  
8           employee.

9           ~~[(4)]~~ (5) 'Employer' includes any individual,  
10          corporation, association, joint stock company, bank,  
11          insurance company, credit union, cooperative, or other  
12          equity or group employing any person, and also includes  
13          the Federated States of Micronesia, State and local  
14          governments, and their agencies, charged with the  
15          disbursement of public moneys as salaries or wages.  
16          'Employer' also includes the United States Government  
17          and instrumentalities thereof.

18          ~~[(5)]~~ (6) 'Gross revenue' means the gross receipts, cash  
19          or accrued, of the taxpayer received as compensation for  
20          personal services and the gross receipts of the taxpayer  
21          derived from trade, business, commerce, or sales and the  
22          value proceeding or accruing from the sale of tangible  
23          personal property, or services, or both, and all  
24          receipts, actual or accrued by reason of the capital of  
25          the business engaged in, including interest, rentals,

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1 royalties, fees, or other emoluments however designated  
2 and without any deductions on account of the cost of  
3 property sold, the cost of materials used, [~~labor cost~~],  
4 taxes, royalties, or interest paid or any other expenses  
5 whatsoever. Gross revenue shall not include the  
6 following:

7 (a) refunds and rebates;

8 (b) moneys held in a fiduciary capacity;

9 (c) wages and salaries, received by the taxpayer,  
10 which are taxed under other provisions of this chapter;

11 (d) sale payments received for the sale of a  
12 commercial aircraft, to the extent that such sale  
13 payments in any quarter shall equal the rental payments  
14 made to the buyer/lessor by the seller/lessee of such  
15 aircraft for its rental by the seller/lessee;

16 (e) rental payments received for the rental of a  
17 commercial aircraft, to the extent that such rental  
18 payments in any quarter shall equal the sale payments  
19 made to the seller/lessee by the buyer/lessor of such  
20 aircraft for its purchase by the buyer/lessor;

21 (f) cash discounts allowed and taken on sales,  
22 the proceeds of sale of goods, wares, or merchandise  
23 returned by customers when the sale price is refunded  
24 either in cash or by credit; or the sale price of any  
25 article accepted as part of payment of any new article

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1 sold, if the full sale price of a new article is  
2 included in 'gross revenue';

3 (g) funds received by an international  
4 organization, foreign contractor, or other foreign  
5 entity paid from foreign aid proceeds donated to the  
6 Federated States of Micronesia pursuant to a foreign aid  
7 agreement entered into by the Federated States of  
8 Micronesia, the terms of which require that such gross  
9 revenue shall not be subject to taxation by the  
10 Government of the Federated States of Micronesia;

11 (h) proceeds of export sales of tangible personal  
12 property produced or manufactured in the Federated  
13 States of Micronesia and delivered to a buyer outside  
14 the Federated States of Micronesia;

15 (i) proceeds of sales of products of a processing  
16 facility in the Federated States of Micronesia which are  
17 subsequently exported from, and not used in, the  
18 Federated States of Micronesia;

19 (j) proceeds of sales of fish by foreign or  
20 domestic fishing vessels to processing facilities within  
21 the Federated States of Micronesia; or

22 (k) proceeds of sales of bait fish to foreign or  
23 domestic fishing vessels.

24 [~~6~~] (7) 'Military or Naval Forces of the United States'  
25 and 'Armed Forces of the United States' means all

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1 regular and reserve components of the uniformed services  
2 which are subject to the jurisdiction of the Secretary  
3 of the Army, Navy, or Air Force, and also includes the  
4 Coast Guard.

5 [~~(7)~~] (8) 'Month' means calendar month.

6 (9) 'Taxable Gross Revenues' shall mean, for any tax  
7 period, the figure calculated by deducting from the  
8 Gross Revenues for the period, the following expenses of  
9 the business for that period:

10 (a) reasonable charges by a public utility for  
11 electricity, water, telephone and other utility services  
12 used by the business in producing the Gross Revenues;

13 (b) wages, salaries and benefits reasonably paid  
14 by the taxpayer to or on behalf of Citizen Employees of  
15 the business for personal services relating to producing  
16 the Gross Revenues, as such wages and salaries are  
17 reported pursuant to subchapter III of chapter 1 of  
18 title 54 of the Code of the Federated States of  
19 Micronesia; and

20 (c) Social Security contributions by the business  
21 in respect of its Citizen Employees pursuant to section  
22 902 of title 53 of the Code of the Federated States of  
23 Micronesia.

24 [~~(8)~~] (10) 'Processing facility' means a business that  
25 prepares, alters, and/or packages raw materials into a

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1 finished product for resale.

2 [~~(9)~~] (11) 'Purchase payments' means payments on the actual  
3 selling price, including any interest, carrying charges,  
4 or other charges associated with a sale. As used  
5 herein, the word 'sale' implies a transfer of ownership  
6 of that which is sold, in exchange for the purchase  
7 payments or promise thereof.

8 [~~(10)~~] (12) 'Rental payments' means any payments made in  
9 exchange for use or rental, and includes interest,  
10 carrying charges, or other charges associated with use  
11 or rental.

12 [~~(11)~~] (13) 'Secretary' means the Secretary of the  
13 Department of Finance and Administration.

14 [~~(12)~~] (14) 'Wages' or 'Salaries' means and includes  
15 commissions, fees, compensation, emoluments, bonuses,  
16 and every and all other kinds of compensation paid for,  
17 or credited or attributable to, personal services  
18 performed by an individual, which services have been  
19 performed by such person as an employee. Wages and  
20 salaries shall not include the following:

21 (a) any payment received from the United States  
22 by members of the Military or Naval Forces of the United  
23 States or the Armed Forces of the United States;

24 (b) reasonable per diem and travel allowances to  
25 the extent that they do not exceed any comparable

1 Federated States of Micronesia Government rates;

2 (c) rental value of a home furnished to any  
3 employee or a reasonable rental allowance paid to any  
4 employee (to the extent such allowance is used by the  
5 employee to rent or provide a home);

6 (d) any payment on account of sickness or  
7 accident disability, or any payment of medical or  
8 hospitalization expenses, made by an employer to or on  
9 behalf of an employee; provided, however, that normal  
10 wages or salaries paid to an employee for a period of  
11 time during which he is excused from work because of  
12 sickness shall not be excluded from wages and salaries  
13 under this subsection;

14 (e) any payment made to or on behalf of an  
15 employee or to his beneficiary from a trust or annuity;

16 (f) remuneration paid in any medium other than  
17 cash to an employee for service not in the ordinary  
18 course of the employer's trade or business;

19 (g) remuneration paid for casual or intermittent  
20 labor not performed in the ordinary course of the  
21 employer's trade or business and for not more than one  
22 week in each calendar month;

23 (h) any payment in the form of a scholarship,  
24 fellowship, or stipend made to any employee while he is  
25 a full-time, bona fide student at an educational

1 institution;

2 (i) any payment received by a minister of the  
3 gospel or clergyman from a religious group or  
4 organization;

5 (j) any payment received by an employee for  
6 services performed as a domestic or household employee  
7 for a private individual or family;

8 (k) any payment received by an employee, who is  
9 not a citizen of the Federated States of Micronesia,  
10 while employed by an international organization, foreign  
11 contractor, or other foreign entity performing services  
12 or otherwise conducting business in furtherance of a  
13 foreign aid agreement entered into by the Federated  
14 States of Micronesia, the terms of which require that  
15 such wages and salaries shall not be subject to taxation  
16 by the Government of the Federated States of Micronesia;  
17 or

18 (l) the foreign service premium authorized by  
19 section 163 of title 52 of the Code of the Federated  
20 States of Micronesia.

21 [~~(13)~~] (15) 'Year' means calendar year."

22 Section 2. Section 141 of title 54 of the Code of the  
23 Federated States of Micronesia is hereby amended to read as  
24 follows:

25 "Section 141. Tax on gross revenues; Exemption.



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1           (1) There shall be assessed, levied, collected,  
2           and paid a tax of \$80 per year upon that portion of  
3           the amount of taxable gross revenues earned by  
4           every business subject to the provisions of this  
5           chapter which does not exceed \$10,000 per year.

6           (2) There shall be assessed, levied, collected,  
7           and paid a tax of three percent per year upon that  
8           portion of the amount of taxable gross revenues  
9           earned by every business subject to the provisions  
10          of this chapter which is in excess of \$10,000 per  
11          year.

12          (3) Businesses which earn gross revenues of not  
13          more than \$2,000 per year are exempt from taxation  
14          under this section. The deduction shall be claimed  
15          by the business by filing for a refund under the  
16          provisions of sections 122 and 123 of this chapter.

17          (4) For the purpose of section 805 of this title,  
18          every business that operates in more than one State  
19          of the Federated States of Micronesia shall file a  
20          separate tax return for revenue collected in each  
21          State."

22          Section 3. Section 143 of title 54 of the Code of the  
23          Federated States of Micronesia is hereby amended to read as  
24          follows:

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1           "Section 143.   Returns and payment of tax on  
2           taxable gross revenue.

3           (1) Every business, on or before the last day of  
4           the month following the close of each quarter, to  
5           wit: on or before April 30, July 31, October 31,  
6           January 31, shall pay, based on its taxable gross  
7           revenue of the preceding quarter, the amount of tax  
8           imposed by this chapter to the National revenue  
9           officer in the State in which the business has its  
10          principal place of business in the Federated States  
11          of Micronesia, or to the Secretary.

12          (2) Each business shall, on or before the date  
13          provided for payment of tax under this section,  
14          make a full, true, and correct return showing all  
15          ~~such~~ gross revenue received, accrued, or earned  
16          by the business, the taxable gross revenues of the  
17          business, the expenses for utilities, wages and  
18          salaries and social security contributions claimed  
19          by the business in calculating its taxable gross  
20          revenue and the amounts deducted and set aside on  
21          account ~~thereof~~ of the taxable gross revenues  
22          during the preceding quarter.

23          (3) The return shall be filed at the place in  
24          this section prescribed for payment of the tax and  
25          shall include such other information as shall be

1           required or prescribed by the Secretary. The  
2           Secretary, for good cause, may extend the time for  
3           making payments and returns, but not beyond the  
4           last day of the first month succeeding the regular  
5           due date thereof."

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

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10 Date: 5/18/05

Introduced by: /s/ Isaac V. Figir  
Isaac V. Figir

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