

A BILL FOR AN ACT

To further amend section 112 of title 54 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 18-118, to permit certain deductions for purposes of the Gross Revenue Tax, 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 (Annotated), as amended by Public
3 Law No. 18-118, is hereby further amended to read as follows:

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

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

19 (2) 'Commercial aircraft' means any aircraft capable
20 of and intended for use in commercial aviation.

1 (3) 'Employee' means any individual who, under the
2 usual common law rules applicable in determining the
3 employer-employee relationship, has the status of an
4 employee.

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

14 (5) 'Gross revenue' means the gross receipts, cash
15 or accrued, of the taxpayer received as compensation for
16 personal services and the gross receipt of the taxpayer
17 derived from trade, business, commerce, or sales and the
18 value proceeding or accruing from the sale of tangible
19 personal property, or services, or both, and all
20 receipts, actual or accrued by reason of the capital of
21 the business engaged in, including interest, rentals,
22 royalties, fee, or other emoluments however designated
23 and without any deductions on account of the cost of
24 property sold, the cost of materials used, taxes,
25 royalties, or interest paid or nay other expenses

1 whatsoever. Gross revenue shall not include the
2 following:

3 (a) refunds and rebates;

4 (b) moneys held in a fiduciary capacity;

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

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

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

18 (f) cash discounts allowed and taken on sales,
19 the proceeds of sale of goods, wares, or merchandise
20 returned by customers when the sale price is refunded
21 either in cash or by credit; or the sale price of any
22 article accepted as part of payment of any new article
23 sold, if the full sale price of a new article is
24 included in 'gross revenue';

25 (g) funds received by an international

1 organization, foreign contractor, or other foreign
2 entity paid from foreign aid proceeds donated to the
3 Federated States of Micronesia pursuant to a foreign aid
4 agreement entered into by the Federated States of
5 Micronesia, the terms of which require that such gross
6 revenue shall not be subject to taxation by the
7 Government of the Federated States of Micronesia;

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

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

16 (j) proceeds of sales of fish by foreign or
17 domestic fishing vessels to processing facilities within
18 the Federated States of Micronesia; or

19 (k) proceeds of sales of bait fish to foreign or
20 domestic fishing vessels;

21 (l) proceeds from (i) recycling waste paper,
22 plastic, aluminum, tin or other scrap metal, or glass so
23 that such materials may be re-used, (ii) removing such
24 waste materials, motor vehicles, appliances, batteries,
25 paint or toxic chemicals from the Federated States of

1 Micronesia for disposal or recycling; or (iii)
2 collecting such waste materials, motor vehicles,
3 appliances, batteries, paint or toxic chemicals for the
4 purposes of removal from the Federated States of
5 Micronesia for recycling or disposal.

6 (6) 'Military or Naval Forces of the United and
7 'Armed Forces of the United States' means all regular
8 and reserve components of the uniformed services which
9 are subject to the jurisdiction of the Secretary of the
10 Army, Navy, or Air Force, and also includes the Coast
11 Guard.

12 (7) 'Month' means calendar month.

13 (8) 'Taxable Gross Revenues' shall mean, for any tax
14 period, the figure calculated by deducting from the
15 Gross Revenues for the period, the following expenses of
16 the business for the period:

17 (a) wages, salaries and benefits reasonably paid
18 by the taxpayer to or on behalf of employees of the
19 business for personal services relating to producing the
20 Gross Revenues, as such wages and salaries are reported
21 pursuant to subchapter III of chapter 1 of title 54 of
22 the Code of the Federated States of Micronesia; and

23 (b) Social Security contributions by the
24 business in respect of its employees pursuant to section
25 902 of title 53 of the Code of the Federated States of

1 Micronesia;["]

2 (c) Electric utility and water utilities costs
3 paid by the business which are directly related to
4 business operations;

5 (d) Communication expenses paid by the business
6 which are directly related to business operations[~~-~~];
7 and

8 (e) Contributions made by the business on behalf
9 of their employees towards the employees' MiCare health
10 insurance plan.

11 (9) 'Processing facility' means a business that
12 prepares, alters, and/or packages raw materials into a
13 finished product for resale.

14 (10) 'Purchase payments' means payments on the actual
15 selling price, including any interest, carrying charges,
16 or other charges associated with a sale. As used
17 herein, the word 'sale' implies a transfer of ownership
18 of that which is sold, in exchange for the purchase
19 payments or promise thereof.

20 (11) 'Rental payments' means any payments made in
21 exchange for use or rental, and includes interest,
22 carrying charges, or other changes associated with use
23 or rental.

24 (12) 'Secretary' means the Secretary of the Department
25 of Finance and Administration.

1 (13) 'Wages' or 'Salaries' means and includes
2 commissions, fees, compensation, emoluments, bonuses,
3 and every and all other kinds of compensation paid for,
4 or credited or attributable to, personal services
5 performed by an individual, which services have been
6 performed by such person as an employee. Wages and
7 salaries shall not include the following:

8 (a) any payment received from the United States
9 by members of the Military or Naval Forces of the United
10 States or the Armed Forces of the United States;

11 (b) reasonable per diem and travel allowances to
12 the extent that they do not exceed any comparable
13 Federated States of Micronesia Government rates;

14 (c) rental value of a home furnished to any
15 employee or a reasonable rental allowance paid to any
16 employee (to the extent such allowance is used by the
17 employee to rent or provide a home);

18 (d) any payment on account of sickness or
19 accident disability, or any payment of medical or
20 hospitalization expenses, made by an employer to or on
21 behalf of an employee; provided, however, that normal
22 wages or salaries paid to an employee for a period of
23 time during which he is excused from work because of
24 sickness shall not be excluded from wages and salaries
25 under this subsection;

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

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

6 (g) remuneration paid for casual or intermittent
7 labor not performed in the ordinary course of the
8 employer's trade or business and for not more than one
9 week in each calendar month;

10 (h) any payment in the form of a scholarship,
11 fellowship, or stipend made to any employee while he is
12 a full-time, bona fide student at an educational
13 institution;

14 (i) any payment received by a minister of the
15 gospel or clergyman from a religious group or
16 organization;

17 (j) any payment received by an employee for
18 services performed as a domestic or household employee
19 for a private individual or family;

20 (k) any payment received by an employee, who is
21 not a citizen of the Federated States of Micronesia,
22 while employed by an international organization, foreign
23 contractor, or other foreign entity performing services
24 or otherwise conducting business in furtherance of a
25 foreign aid agreement entered into by the Federated

1 States of Micronesia, the terms of which require that
2 such wages and salaries shall not be subject to taxation
3 by the Government of the Federated States of Micronesia;
4 or

5 (1) the foreign service premium authorized by section
6 163 of title 52 of the Code of the Federated States of
7 Micronesia.

8 Section 2. The provisions of this act shall take effect [~~on~~
9 ~~April 1, 2015~~] January 1, 2021.

10 Section 3. This act shall become law upon approval by the
11 President of the Federated States of Micronesia or upon its
12 becoming law without such approval.

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14 Date: 11/13/20 Introduced by: /s/ Isaac V. Figir
Isaac V. Figir

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