

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 Laws No. 18-118 and 21-250, to reassert the long-standing definition of "Gross revenue" and clarify that the gross revenue tax is computed by not allowing a deduction for the state sales 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 Laws Nos. 18-118 and 21-250, 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.

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

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

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

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

1 property sold, the cost of materials used, taxes =
2 including state sales tax - [7] royalties, or interest
3 paid or any other expenses whatsoever. Gross revenue
4 shall not include the following:

5 (a) refunds and rebates;

6 (b) moneys held in a fiduciary capacity, which
7 excludes the amount of state sales tax retained and set
8 aside by a seller for later remittance to the state;

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

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

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

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

1 article accepted as part of payment of any new article
2 sold, if the full sale price of a new article is
3 included in 'gross revenue';

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

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

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

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

23 (k) proceeds of sales of bait fish to foreign or
24 domestic fishing vessels;

25 (l) proceeds from (i) recycling waste paper,

1 plastic, aluminum, tin or other scrap metal, or glass so
2 that such materials may be re-used, (ii) removing such
3 waste materials, motor vehicles, appliances, batteries,
4 paint or toxic chemicals from the Federated States of
5 Micronesia for disposal or recycling; or (iii)
6 collecting such waste materials, motor vehicles,
7 appliances, batteries, paint or toxic chemicals for the
8 purposes of removal from the Federated States of
9 Micronesia for recycling or disposal.

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

16 (7) 'Month' means calendar month.

17 (8) 'Taxable Gross Revenues' shall mean, for any tax
18 period, the figure calculated by deducting from the
19 Gross Revenues for the period, the following expenses of
20 the business for the period:

21 (a) wages, salaries and benefits reasonably paid
22 by the taxpayer to or on behalf of employees of the
23 business for personal services relating to producing the
24 Gross Revenues, as such wages and salaries are reported
25 pursuant to subchapter III of chapter 1 of title 54 of

1 the Code of the Federated States of Micronesia; and

2 (b) Social Security contributions by the
3 business in respect of its employees pursuant to section
4 902 of title 53 of the Code of the Federated States of
5 Micronesia;

6 (c) Electric utility and water utilities costs
7 paid by the business which are directly related to
8 business operations;

9 (d) Communication expenses paid by the business
10 which are directly related to business operations~~[.]~~;

11 and

12 (e) Contributions made by the business on behalf
13 of their employees towards the employees' MiCare health
14 insurance plan.

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

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

24 (11) 'Rental payments' means any payments made in
25 exchange for use or rental, and includes interest,

1 carrying charges, or other changes associated with use
2 or rental.

3 (12) 'Secretary' means the Secretary of the Department
4 of Finance and Administration.

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

12 (a) any payment received from the United States
13 by members of the Military or Naval Forces of the United
14 States or the Armed Forces of the United States;

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

18 (c) rental value of a home furnished to any
19 employee or a reasonable rental allowance paid to any
20 employee (to the extent such allowance is used by the
21 employee to rent or provide a home);

22 (d) any payment on account of sickness or
23 accident disability, or any payment of medical or
24 hospitalization expenses, made by an employer to or on
25 behalf of an employee; provided, however, that normal

1 wages or salaries paid to an employee for a period of
2 time during which he is excused from work because of
3 sickness shall not be excluded from wages and salaries
4 under this subsection;

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

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

10 (g) remuneration paid for casual or intermittent
11 labor not performed in the ordinary course of the
12 employer's trade or business and for not more than one
13 week in each calendar month;

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

18 (i) any payment received by a minister of the
19 gospel or clergyman from a religious group or
20 organization;

21 (j) any payment received by an employee for
22 services performed as a domestic or household employee
23 for a private individual or family;

24 (k) any payment received by an employee, who is
25 not a citizen of the Federated States of Micronesia,

1 while employed by an international organization, foreign
2 contractor, or other foreign entity performing services
3 or otherwise conducting business in furtherance of a
4 foreign aid agreement entered into by the Federated
5 States of Micronesia, the terms of which require that
6 such wages and salaries shall not be subject to taxation
7 by the Government of the Federated States of Micronesia;
8 or

9 (1) the foreign service premium authorized by section
10 163 of title 52 of the Code of the Federated States of
11 Micronesia."

12 Section 2. This act shall become law upon approval by the
13 President of the Federated States of Micronesia or upon its
14 becoming law without such approval.

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16 Date: 5/27/22

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

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