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A BILL FOR AN ACT

To amend section 112 (5) of title 54 of the Code of the Federated States of Micronesia to provide a new definition of the term "gross revenue," and for other purposes.

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

1 Section 1. Section 112 (5) of title 54 of the Code of the
2 Federated States of Micronesia is hereby amended to read as follows:
3 "Section 112. Definitions. Wherever used in this chapter,
4 unless the subject matter, context, or sense otherwise
5 requires.

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

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

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

21 (4) 'Employer' includes any individual, corporation,
22 association, joint stock company, bank, **insurance company**,
23 credit union, cooperative, or other equity or group employing
24 any person, and also includes the Trust Territory, Federated
25 States of Micronesia, State and local governments, and their

agencies, charged with the disbursement of public moneys as salaries or wages. 'Employer' also includes the United States Government and instrumentalities thereof.

(5) 'Gross revenue' means the gross receipts, cash or accrued, of the taxpayer received as compensation for personal services not in the form of salaries or wages as defined in subsection (11) of this section, and the gross receipts of the taxpayer derived from trade, business, commerce, or sales and the value proceeding or accruing from the sale of tangible personal property, or service, or both, and all receipts, actual or accrued by reason of the capital of the business engaged in, including interest, rentals, royalties, fees, or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor cost, taxes royalties, or interest paid or any other expenses whatsoever. Gross revenue shall not include the following:

(a) refunds and rebates;

(b) moneys held in a fiduciary capacity;

(c) income in the form of wages and salaries which are taxed under other provisions of this chapter;

(d) sale payments received for the sale of a commercial aircraft, to the extent that such sale payments in any quarter shall equal the rental payments made to the buyer by the seller of such aircraft for its rental by seller;

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1 (e) rental payments received for the rental of
2 a commercial aircraft, to the extent that such rental
3 payments in any quarter shall equal the sale payments made
4 to the lessor by lessee of such aircraft for its purchase
5 by the lessor; ~~or~~

6 (f) cash discounts allowed and taken on sales,
7 the proceeds of sale of goods, wares, or merchandise
8 returned by customers when the sale price is refunded
9 either in cash or by credit; or the sale price of any
10 article accepted as part of payment of any new article sold,
11 if the full sale price of a new article is included in
12 'gross revenue/' ; or

13 (g) income received from the sale of locally
14 grown, gathered, or produced fruits, vegetables, grains,
15 plants, meat, livestock, eggs, fish, shellfish, marine
16 products, or handicrafts. This exclusion does not apply
17 to local foods sold and served in restaurants.

18 (6) 'Military or Naval Forces of the United States'
19 and 'Armed Forces of the United States' means all regular
20 and reserve components of the uniformed services which are
21 subject to the jurisdiction of the Secretary of the Army,
22 Navy, or Air Force, and also includes the Coast Guard.

23 (7) 'Month' means calendar month.

24 (8) 'Purchase payments' means payments on the actual
25 selling price, including any interest, carrying charges, or

1 other charges associated with a sale. As used herein, the word
2 'sale' implies a transfer of ownership of that which is sold, in
3 exchange for the purchase payments or promise thereof.

4 (9) 'Rental payments' means any payments made in exchange for
5 use or rental, and includes interest, carrying charges, or other
6 charges associated with use or rental.

7 (10) 'Secretary' means the Secretary of the Department of Finance.

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

14 (a) wages and salaries received from the United
15 States by members of the Military or Naval Forces of the
16 United States or the Armed Forces of the United States;

17 (b) reasonable per diem and travel allowances to
18 the extent that they do not exceed any comparable Trust
19 Territory Government rates;

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

24 (d) any payment on account of sickness or accident
25 disability, or any payment of medical or hospitalization

expenses, made by an employer to or on behalf of an employee; provided, however, that normal wages or salaries paid to an employee for a period of time during which he is excused from work because of sickness shall not be excluded from wages and salaries under this subsection;

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

(f) remuneration paid in any medium other than cash to an employee for service not in the ordinary course of the employer's trade or business, or for domestic service in a private home of an employer;

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

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

(i) wages and salaries received by a minister of the gospel or clergyman from a religious group or organization;

(j) wages and salaries received by an employee for services performed or rendered in the capacity of a domestic or household employee for a private individual or family.

(12) 'Year' means calendar year."

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

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5 Date: 5-20-85
6 5-20-85

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