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A BILL FOR AN ACT

To amend title 54 of the Code of the Federated States of Micronesia by amending section 112 for the purpose of providing for certain exceptions to the definitions of "gross revenue" and "wages and salaries" as required by the terms of foreign aid agreements entered into by the Federated States of Micronesia, 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 Federated
2 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,
7 manufacture, or other undertaking carried on for pecuniary
8 profit and includes all activities whether personal,
9 professional, or incorporated, carried on within the
10 Federated States of Micronesia for economic benefit either
11 direct or indirect, and excludes casual sales, as determined
12 by the Secretary; however, one who qualifies as an employee
13 under this section shall not be considered as a business.
14 Copra production by unincorporated copra producers
15 collectively or severally shall not be included as a
16 business under this definition.

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

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

23 (4) 'Employer' includes any individual, corporation,
24 association, joint stock company, bank, insurance company,
25 credit union, cooperative, or other equity or group

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1 employing any person, and also includes the Trust Territory,
2 Federated States of Micronesia, State and local governments,
3 and their agencies, charged with the disbursement of public
4 moneys as salaries or wages. 'Employer' also includes the
5 United States Government and instrumentalities thereof.

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

20 (a) refunds and rebates;
21 (b) moneys held in a fiduciary capacity;
22 (c) income in the form of wages and salaries
23 which are taxed under other provisions of this chapter;

24 (d) sale payments received for the sale of a
25 commercial aircraft, to the extent that such sale payments

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1 in any quarter shall equal the rental payments made to the
2 buyer by the seller of such aircraft for its rental by
3 seller;

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

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

16 (g) gross revenue received by an international
17 organization, foreign contractor, or other foreign entity
18 paid from foreign aid proceeds donated to the Federated
19 States of Micronesia pursuant to a foreign aid agreement
20 entered into by the Federated States of Micronesia, the
21 terms of which require that such gross revenue shall not be
22 subject to taxation by the Government of the Federated
23 States of Micronesia.

24 (6) 'Military or Naval Forces of the United States'
25 and 'Armed Forces of the United States' means all regular

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

4 (7) 'Month' means calendar month.

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

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

14 (10) 'Secretary' means the Secretary of the Department
15 of Finance.

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

23 (a) wages and salaries received from the United
24 States by members of the Military or Naval Forces of the
25 United States or the Armed Forces of the United States;

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

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

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

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

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

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

25 (h) any payment in the form of a scholarship,

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1 fellowship, or stipend made to any employee while he is a
2 full-time, bona fide student at an educational institution
3 within the Trust Territory;

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

7 (j) wages and salaries received by an employee
8 for services performed or rendered in the capacity of a
9 domestic or household employee for a private individual or
10 family/; or

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

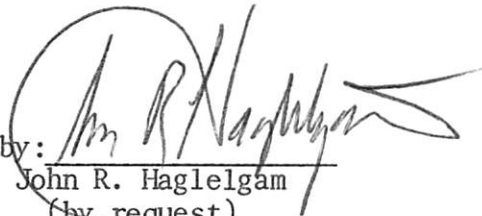
19 (12) 'Year' means calendar year."

20 Section 2. The amendments provided for by section 1 of this act
21 shall be applied retroactively.

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

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Date: 3/20/86

Introduced by: 
John R. Haglelgam
(by request)