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A BILL FOR AN ACT

To amend title 54 of the Code of the Federated States of Micronesia by amending sections 112 and 141; by repealing section 201 in its entirety and enacting a new section 201; to provide a new definition of "gross revenue"; to modify rates of taxes on "gross revenue" and imports; 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, manufacture,
7 or other undertaking carried on for pecuniary profit and
8 includes all activities whether personal, professional, or
9 incorporated, carried on within the Federated States of
10 Micronesia for economic benefit either direct or indirect, and
11 excludes casual sales, as determined by the Secretary; however,
12 one who qualifies as an employee under this section shall not
13 be considered as a business. Copra production by unincor-
14 porated copra producers collectively or severally shall not be
15 included as a business under this definition.

16 (2) ~~'Commercial aircraft' means any aircraft capable of~~
17 ~~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

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

(§ 4) '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 (10) 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 a
2 commercial aircraft, to the extent that such rental payments
3 in any quarter shall equal the sale payments made to the lessor
4 by lessee of such aircraft for its purchase by the lessor, or

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

11 (e) income received from the sale of locally grown,
12 gathered, or produced fruits, vegetables, grains, plants,
13 meat, livestock, eggs, fish, shellfish, marine products, or
14 handicrafts; or

15 (f) wages and salaries paid to citizen workers.

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

21 (7 6) 'Month' means calendar month.

22 (§ 7) 'Purchase payments' means payments on the actual
23 selling price, including any interest, carrying charges, or
24 other charges associated with a sale. As used herein, the
25 word 'sale' implies a transfer of ownership of that which is

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1 sold, in exchange for the purchase payments or promise thereof.

2 (~~9~~ 8) 'Rental payments' means any payments made in exchange
3 for use or rental, and includes interest, carrying charges, ~~or~~
4 other charges associated with use or rental.

5 (~~10~~ 9) 'Secretary' means the Secretary of the Department of
6 Finance.

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

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

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

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

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

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

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

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

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

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

19 (i) wages and salaries received by a minister of
20 the gospel or clergyman from a religious group or organi-
21 zation;

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

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

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

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

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

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

14 (3) ~~Businesses which earn gross revenues of not more~~
15 ~~than \$2,000 per year are exempt from taxation under this~~
16 ~~section. /The/deduction/shall/be/claimed/by/the/business/by~~
17 ~~filing for a refund under the provisions of sections 122 and~~
18 ~~123 of this chapter/~~

19 (3) Businesses exempted from gross revenue tax under
20 subsection (1) are required to file returns pursuant to section
22 143 of this title."

23 Section 3. Section 201 of title 54 of the Code of the Federated
24 States of Micronesia is hereby repealed in its entirety and a new
25 section 201 is hereby enacted to read as follows:

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"Section 201. Import taxes - Levy and rates. The following import taxes are hereby levied on all products specified herein which are imported into the Federated States of Micronesia for resale except that the taxes levied under subsections (2), (4), (5), and (6) of this section shall apply to products which are imported into the Federated States of Micronesia for personal use and consumption as well as for resale:

(1) Foodstuffs for human consumption at the rate of 3 percent ad valorem;

(2) Motorized vehicles and outboard motors at the rate of 10 percent CIF value;

(3) Perfumery, cosmetics, and toiletries, including cologne and other toilet waters, articles of perfumery, whether in sachets or otherwise, and all preparations used as applications to the hair or skin, lipsticks, pomades, powders, and other toilet preparations not having medicinal properties, at the rate of 25 percent ad valorem;

(4) Wine and distilled alcoholic beverages, at the rate of \$3.00 per liter;

(5) Cigarettes at the rate of 7 cents per 20 cigarettes;

(6) Beer and malt beverages, at the rate of 6 cents per can or bottle of 12 fluid ounces or fractional part thereof;

(7) All other imported products, except those specified above, at the rate of 9 percent ad valorem."

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1 Section 4. This act shall become law upon approval by the President
2 of the Federated States of Micronesia or upon its becoming law without
3 such approval.

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5 Date: Nov. 6, 1985

Introduced by: 
Peter M. Christian

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