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SIXTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST REGULAR SESSION, 1989

C. B. No. 6-72

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A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-65, 5-81 and 5-84, by amending sections 112, 113, 143, 803, 805 and 806 to permit the States to collect, retain and enforce 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 is hereby amended to read as  
3 follows:

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

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

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

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

24              (4) 'Employer' includes any individual, corporation,  
25 association, joint stock company, bank, insurance company,

1 credit union, cooperative, or other equity or group  
2 employing any person, and also includes the Trust Territory,  
3 Federated States of Micronesia, State and local governments,  
4 and their agencies, charged with the disbursement  
5 of public moneys as salaries or wages. 'Employer' also  
6 includes the United States Government and instrumental-  
7 ities thereof.

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

- 23 (a) refunds and rebates;
- 24 (b) moneys held in a fiduciary capacity;
- 25 (c) income in the form of wages and salaries

1 which are taxed under other provisions of this chapter;

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

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

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

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

1 States of Micronesia.

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

8 (7) 'Month' means calendar month.

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

15 (9) 'Rental payments' means any payments made in  
16 exchange for use or rental, and includes interest,  
17 carrying charges, or other charges associated with use  
18 or rental.

19 (10) 'Secretary' means the Secretary of the Depart-  
20 ment of Finance. except in reference to the gross revenue  
21 tax. With respect to the gross revenue tax, 'Secretary'  
22 means the head of the State government office charged with  
23 enforcing and collecting the gross revenue tax in that State.

24 (11) 'Wages' or 'Salaries' means and includes  
25 commissions, fees, compensation, emoluments, bonuses, and



1 every and all other kinds of compensation paid for,  
2 credited, or attributable to personal services performed  
3 by an individual, which services have been performed by  
4 such person as an employee. Wages and salaries shall  
5 not include the following:

6 (a) wages and salaries received from the United  
7 States by members of the Military or Naval Forces of the  
8 United States or the Armed Forces of the United States;

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

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

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

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

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

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

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

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

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

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

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

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

5 Section 2. Section 113 of title 54 of the Code of the Federated  
6 States of Micronesia is hereby amended to read as follows:

7 "Section 113. Taxes collected declared ~~realization of~~  
8 ~~Gross~~ local revenue. The taxes, except the gross  
9 revenue tax, levied, assessed, and collected under and  
10 pursuant to this chapter shall be paid to the  
11 treasurer of the ~~Trust Territory~~ Federated States  
12 of Micronesia and become part of the General Fund ~~of the~~  
13 ~~Congress of Micronesia~~ as local revenue. ~~realization~~  
14 ~~available for appropriation by the Congress of Micronesia.~~  
15 All gross revenue taxes levied, assessed and collected under  
16 and pursuant to this chapter shall be paid to the  
17 treasurer of the State in which the tax is levied and  
18 assessed."

19 Section 3. Section 143 of title 54 of the Code of the Federated  
20 States of Micronesia is hereby amended to read as follows:

21 "Section 143. Returns and payment of tax on gross revenue.

22 (1) Every business, on or before the last day of the  
23 month following the close of each quarter, to wit: on or  
24 before April 30, July 31, October 31, January 31, shall  
25 pay, based on its gross revenue of the preceding quarter,

1 the amount of tax imposed by this chapter to the ~~National~~  
2 State revenue officer in the State in which the business  
3 has its principal place of business in the Federated States  
4 of Micronesia, or to the Secretary of the State agency  
5 authorized to levy, assess and collect the gross revenue  
6 tax.

7 (2) Each business shall, on or before the date  
8 provided for payment of tax under this section, make a full,  
9 true, and correct return showing all such gross revenue  
10 received, accrued, or earned, and the amounts deducted  
11 and set aside on account thereof during the preceding  
12 quarter.

13 (3) The return shall be filed at the place in this  
14 section prescribed for payment of the tax and shall include  
15 such other information as shall be required or prescribed  
16 by the Secretary. The Secretary, for good cause, may  
17 extend the time for making payments and returns, but not  
18 beyond the last day of the first month succeeding the  
19 regular due date thereof."

20 Section 4. Section 803 of title 54 of the Code of the Federated  
21 States of Micronesia is hereby amended to read as follows:

22 "Section 803. Rules and regulations - Promulgation by  
23 Secretary of Finance.

24 (1) The Secretary ~~of Finance~~, with the approval of  
25 the President of the Federated States of Micronesia, shall



1 prescribe such rules and regulations as are necessary to  
2 collect all taxes, fees, and charges levied or imposed  
3 under this title and all such taxes, fees, and charges  
4 shall be deposited in the General Fund of the Federated  
5 States of Micronesia for appropriation by the Congress  
6 of the Federated States of Micronesia, except for the gross  
7 revenue tax which shall be deposited into the general  
8 fund of the State enforcing the tax.

9 (2) Such rules and regulations shall wherever  
10 practicable require payment in full of all taxes, fees,  
11 and charges immediately upon assessment, and in the case  
12 of import taxes, no later than fifteen days after the  
13 departure of the vessel or planes on which the products  
14 subject to import taxes arrived and before any  
15 merchandise is released by the carrier or his agent  
16 to the importer and, in the case of export taxes, before  
17 any merchandise is loaded on any vessel or aircraft."

18 Section 5. Section 805 of title 54 of the Code of the Federated  
19 States of Micronesia is hereby amended to read as follows:

20 "Section 805. Distribution of revenues.

21 (1) The ~~treasurer~~ Secretary of the ~~Trust Territory~~  
22 Federated States of Micronesia Department of Finance  
23 ~~or his successor~~, shall pay one hundred percent of the  
24 taxes collected pursuant to section 141 of this title,  
25 eighty percent of the net taxes collected pursuant to

1 section 201(9) of this title, and fifty percent of all  
2 other net taxes collected pursuant to sections 121, ~~141~~,  
3 and 201 of this title, into the treasury of the State  
4 government to which the taxes are attributable for  
5 appropriation by the State legislature.

6 (2) 'Net taxes' as used in subsection (1) of this  
7 section means gross collections of taxes, penalties,  
8 interest, or other related charges less refunds and less  
9 the cost of administration.

10 (3) 'Cost of administration' as used in subsection  
11 (2) of this section means the cost determined to be  
12 allocatable to each State by the Congress of the Federated  
13 States of Micronesia when making appropriations for the  
14 operating expenses of the Revenue Division.

15 (4) The revenue office in each State may administer  
16 the taxes of the State in which located, but those duties  
17 shall not interfere with the administration of taxes  
18 imposed by the laws of the Federated States of Micronesia.  
19 All costs in excess of those funded by appropriations of  
20 the Congress of the Federated States of Micronesia required  
21 for the administration of State taxes shall be borne  
22 entirely by the State."

23 Section 6. Section 806 of title 54 of the Code of the  
24 Federated States of Micronesia is hereby amended to read as follows:

25 "Section 806. Grace period.

W+M

C. B. No. 6-72

1 (1) All taxes assessed, levied, or imposed by law  
2 prior to and which are unpaid as of October 3, 1967, are  
3 hereby declared to be due and payable within sixty days  
4 following that date.

5 (2) Any person who, or firm, corporation, partner-  
6 ship, or association which owes such taxes and fails to  
7 pay them in full, including interest at the rate of six  
8 percent per annum, shall be subject to the penalties  
9 prescribed in chapter 9 of this title and the Secretary  
10 ~~of Finance of the Trust Territory~~ shall collect or cause  
11 to be collected such taxes, interest, and penalty in  
12 accordance with chapter 9 of this title or in any other  
13 manner authorized by law."

14 Section 7. This act shall become law upon approval by the  
15 President of the Federated States of Micronesia or upon its  
16 becoming law without such approval.

17  
18 Date: 6/8/89

Introduced by:   
Peter M. Christian

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