

A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia regarding taxation, as amended, by further amending section 112, as amended by Public Law No. 7-41, to deduct from gross receipts for gross receipts tax purposes, all labor costs of citizen employees and Federated States of Micronesia Social Security contributions paid on behalf of such citizens, 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 States of
2 Micronesia, as amended by Public Law No. 7-41, is hereby further amended to
3 read as follows:

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

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

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

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

20 (4) 'Employer' includes any individual, corporation,
21 association, joint stock company, bank, insurance company, credit
22 union, cooperative, or other equity or group employing any person,
23 and also includes the Federated States of Micronesia, State and
24 local governments, and their agencies, charged with the
25 disbursement of public moneys as salaries or wages. 'Employer'

1 also includes the United States Government and instrumentalities
2 thereof.

3 (5) 'Gross revenue' means:

4 (a) the gross receipts, cash or accrued, of the taxpayer
5 received as compensation for personal services not in the form of
6 salaries or wages as defined in subsection (11) of this section; and

7 (b) the gross receipts of the taxpayer derived from
8 trade, business, commerce, or sales and the value proceeding or
9 accruing from the sale of tangible personal property, or services, or
10 both, and all receipts, actual or accrued by reason of the capital of
11 the business engaged in, including interest, rentals, royalties, fees, or
12 other emoluments however designated and without any deductions
13 on account of the cost of property sold, the cost of materials used,
14 ~~labor cost~~, taxes, royalties, or interest paid or any other expenses
15 whatsoever other than the following expenses which may be
16 deducted to the extent substantiated through reliable
17 documentation: labor costs of citizen employees and Federated
18 States of Micronesia Social Security contributions which have been
19 paid by the taxpayer for the benefit of his or her citizen employees
20 pursuant to title 54 of the Code of the Federated States of
21 Micronesia; PROVIDED, however, that/ & gross revenue shall not
22 include the following:

23 (a i) refunds and rebates;

24 (b ii) moneys held in a fiduciary capacity;

25 (c iii) income in the form of wages and salaries which are

1 taxed under other provisions of this chapter;

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

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

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

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

23 (6) 'Military or Naval Forces of the United States' and
24 'Armed Forces of the United States' means all regular and reserve
25 components of the uniformed services which are subject to the

1 jurisdiction of the Secretary of the Army, Navy, or Air Force, and
2 also includes the Coast Guard.

3 (7) 'Month' means calendar month.

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

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

12 (10) 'Secretary' means the Secretary of the Department of
13 Finance.

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

20 (a) wages and salaries received from the United States
21 by members of the Military or Naval Forces of the United States or
22 the Armed Forces of the United States;

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

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- 1 (c) rental value of a home furnished to any employee or
2 a reasonable rental allowance paid to any employee (to the extent
3 such allowance is used by the employee to rent or provide a home);
- 4 (d) any payment on account of sickness or accident
5 disability, or any payment of medical or hospitalization expenses,
6 made by an employer to or on behalf of an employee; provided,
7 however, that normal wages or salaries paid to an employee for a
8 period of time during which he is excused from work because of
9 sickness shall not be excluded from wages and salaries under this
10 subsection;
- 11 (e) any payment made to or on behalf of an employee
12 or to his beneficiary from a trust or annuity;
- 13 (f) remuneration paid in any medium other than cash to
14 an employee for service not in the ordinary course of the employer's
15 trade or business or for domestic service in a private home of an
16 employer;
- 17 (g) remuneration paid for casual or intermittent labor
18 not performed in the ordinary course of the employer's trade or
19 business and for not more than one week in each calendar month;
- 20 (h) any payment in the form of a scholarship, fellowship,
21 or stipend made to any employee while he is a full-time, bona fide
22 student at an educational institution;
- 23 (i) wages and salaries received by a minister of the
24 gospel or clergyman from a religious group or organization;
- 25 (j) wages and salaries received by an employee for

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1 services performed or rendered in the capacity of a domestic or
2 household employee for a private individual or family; or
3 (k) wages and salaries received by an employee, who is
4 not a citizen of the Federated States of Micronesia, while employed
5 by an international organization, foreign contractor, or other foreign
6 entity performing services or otherwise conducting business in
7 furtherance of a foreign aid agreement entered into by the
8 Federated States of Micronesia, the terms of which require that
9 such wages and salaries shall not be subject to taxation by the
10 Government of the Federated States of Micronesia.

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

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

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16 Date: 6/6/95

Introduced by: 
Peter M. Christian

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