

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 exclude the foreign service premium from the wages and salaries 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 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
5 the 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
9 on within the Federated States of Micronesia for economic benefit
10 either direct or indirect, and excludes casual sales, as determined
11 by the Secretary; however, one who qualifies as an employee under
12 this section shall not be considered as a business. Copra
13 production by unincorporated copra producers collectively or
14 severally shall not be 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, association,
21 joint stock company, bank, insurance company, credit union,
22 cooperative, or other equity or group employing any person, and
23 also includes the Federated States of Micronesia, State and local
24 governments, and their agencies, charged with the disbursement of
25 public moneys as salaries or wages. 'Employer' also includes the

1 United States Government and instrumentalities thereof.

2 (5) 'Gross revenue' means the gross receipts, cash or

3 accrued, of the taxpayer received as compensation for personal

4 services not in the form of salaries or wages as defined in

5 subsection (11) of this section and the gross receipts of the

6 taxpayer derived from trade, business, commerce, or sales and

7 the value proceeding or accruing from the sale of tangible personal

8 property, or services, or both, and all receipts, actual or accrued

9 by interest, rentals, royalties, fees, or other emoluments however

10 designated and without any deductions on account of the cost of

11 property sold, the cost of materials used, labor cost, taxes,

12 royalties, or interest paid or any other expenses whatsoever.

13 Gross revenue shall not include the following:

14 (a) refunds and rebates;

15 (b) moneys held in a fiduciary capacity;

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

17 taxed under other provisions of this chapter;

18 (d) sale payments received for the sale of a commercial

19 aircraft, to the extent that such sale payments in any quarter shall

20 equal the rental payments made to the buyer by the seller of such

21 aircraft for its rental by seller;

22 (e) rental payments received for the rental of a

23 commercial aircraft, to the extent that such rental payments in

24 any quarter shall equal the sale payments made to the lessor by

25 lessee of such aircraft for its purchase by the lessor;

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

7 (g) gross revenue received by an international
 8 organization, foreign contractor, or other foreign entity paid from
 9 foreign aid proceeds donated to the Federated States of
 10 Micronesia pursuant to a foreign aid agreement entered into by
 11 the Federated States of Micronesia, the terms of which require
 12 that such gross revenue shall not be subject to taxation by the
 13 Government of the Federated States of Micronesia.

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

19 (7) 'Month' means calendar month.

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

25 (9) 'Rental payments' means any payments made in exchange

1 for use or rental, and includes interest, carrying charges, or other
2 charges associated with use or rental.

3 (10) 'Secretary' means the Secretary of the Department of
4 Finance.

5 (11) 'Wages' or 'Salaries' means and includes commissions,
6 fees, compensation, emoluments, bonuses, and every and all other
7 kinds of compensation paid for, credited, or attributable to
8 personal services performed by such person as an employee.

9 Wages and salaries shall not include the following:

10 (a) wages and salaries received from the United States
11 by members of the Military or Naval Forces of the United States or
12 the Armed Forces of the United States;

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

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

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

1 subsection;

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

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

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

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

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

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

19 (k) wages and salaries received by an employee, who is
20 not a citizen of the Federated States of Micronesia, while employed
21 by an international organization, foreign contractor, or other
22 foreign entity performing services or otherwise conducting business
23 in furtherance of a foreign aid agreement entered into by the
24 Federated States of Micronesia, the terms of which require that
25 such wages and salaries shall not be subject to taxation by the

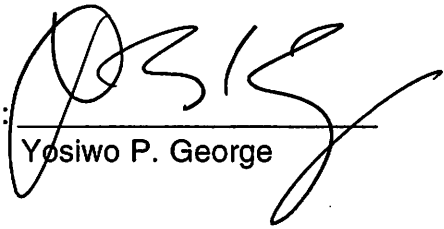
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Government of the Federated States of Micronesia; or
(l) the foreign service premium authorized by section
163 of title 52 of the Code of the Federated States of Micronesia.

(12) 'Year' means calendar year."

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

Date: 02/10/98

Introduced by: 
Yosiwo P. George