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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 compensation of National Government employees stationed abroad 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
2 Federated States of Micronesia, as amended by Public Law No.
3 7-41, is hereby further amended to read as follows:

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

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

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

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

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1 (4) 'Employer' includes any individual,
2 corporation, association, joint stock company, bank,
3 insurance company, credit union, cooperative, or
4 other equity or group employing any person, and also
5 includes the Federated States of Micronesia, State
6 and local governments, and their agencies, charged
7 with the disbursement of public moneys as salaries or
8 wages. 'Employer' also includes the United States
9 Government and instrumentalities thereof.

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

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- 1 following:
- 2 (a) refunds and rebates;
- 3 (b) moneys held in a fiduciary capacity;
- 4 (c) income in the form of wages and salaries
- 5 which are taxed under other provisions of this
- 6 chapter;
- 7 (d) sale payments received for the sale of a
- 8 commercial aircraft, to the extent that such sale
- 9 payments in any quarter shall equal the rental
- 10 payments made to the buyer by the seller of such
- 11 aircraft for its rental by seller;
- 12 (e) rental payments received for the rental
- 13 of a commercial aircraft, to the extent that such
- 14 rental payments in any quarter shall equal the sale
- 15 payments made to the lessor by lessee of such
- 16 aircraft for its purchase by the lessor;
- 17 (f) cash discounts allowed and taken on
- 18 sales, the proceeds of sale of goods, wares, or
- 19 merchandise returned by customers when the sale price
- 20 is refunded either in cash or by credit; or the sale
- 21 price of any article accepted as part of payment of
- 22 any new article sold, if the full sale price of a new
- 23 article is included in 'gross revenue'; or
- 24 (g) gross revenue received by an
- 25 international organization, foreign contractor, or

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1 other foreign entity paid from foreign aid proceeds
2 donated to the Federated States of Micronesia
3 pursuant to a foreign aid agreement entered into by
4 the Federated States of Micronesia, the terms of
5 which require that such gross revenue shall not be
6 subject to taxation by the Government of the
7 Federated States of Micronesia.

8 (6) 'Military or Naval Forces of the United
9 States' and 'Armed Forces of the United States' means
10 all regular and reserve components of the uniformed
11 services which are subject to the jurisdiction of the
12 Secretary of the Army, Navy, or Air Force, and also
13 includes the Coast Guard.

14 (7) 'Month' means calendar month.

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

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

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1 (10) 'Secretary' means the Secretary of the
2 Department of Finance.

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

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

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

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

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

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

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

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

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

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

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

24 (j) wages and salaries received by an
25 employee for services performed or rendered in the

1 capacity of a domestic or household employee for a
2 private individual or family; ~~and~~


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

14 (l) the adjusted base salary of an employee
15 of the National Government stationed abroad, earned
16 while on duty abroad.

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

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

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22 Date: 5/28/98

Introduced by: 
Redley Killion

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