
A BILL FOR AN ACT

To further amend title 53 of the Code of the Federated States of Micronesia, as amended, by amending section 603 to exempt earnings from non-covered employment from the definition of earning test.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 603 of title 53 of the Code of the
2 Federated States of Micronesia, as amended by Public Law Nos. 5-
3 120, 7-118, 12-76, 14-37, 14-86, 15-73 and 16-10, is hereby
4 further amended to read as follows:

5 "Section 603. Definitions. In this chapter, unless the
6 context otherwise requires, the following definitions
7 shall be applicable:

8 (1) 'Application' means the prescribed form or
9 forms provided to individuals by the Social
10 Security Administrator as the exclusive means by
11 which an individual may apply for the payment of
12 any benefit provided for in section 801, 802, 803
13 or 803A of this act.

14 (2) 'Became disabled' means the first month in
15 which an individual is under a disability.

16 (3) 'Board' means the Federated States of
17 Micronesia
18 Social Security Board provided for by section 701
19 of this subtitle.

20 (4) 'Child or spouse' means an applicant that

1 the court of the State in which an individual was
2 domiciled at the time of his death has or would
3 find to be the individual's child or spouse in
4 determining the devolution of intestate personal
5 property. 'Child' shall include only the deceased
6 individual's biological children and such adopted
7 children whose confirmed petition for adoption by
8 the wage earner has been presented to the Social
9 Security Administration and who were adopted by the
10 wage earner on or prior to the wage earner's 55th
11 birthday of the adopting parent, shall be a 'child'
12 for the purposes of this title unless, the Social
13 Security Administrator makes a determination that,
14 due to exceptional circumstances, the person shall
15 be so entitled. In reaching a determination that
16 exceptional circumstances apply, the Social
17 Security Administrator shall satisfy himself or
18 herself that future eligibility for social security
19 benefits was not a significant factor in the
20 decision to adopt and may consider any available,
21 relevant information including, but not limited to:

22 (a) whether the adopted child's
23 biological mother, and/or biological father were
24 alive at the time the adoption took place;

25 (b) if one or both biological parents

1 were alive at the time of adoption, whether one or
2 both parents were acting or were capable of acting
3 as a primary caregiver at that time;

4 (c) whether the adopting parent is a
5 relative of the adopted child;

6 (d) whether, at the time the adoption
7 took place, there were relatives, not including the
8 adopting parents, who would have been appropriate
9 guardians for the adopted child;

10 (e) whether the adopting parent was a
11 primary caregiver for the adopted child at the time
12 of adoption and continued in that role after the
13 adoption took place;

14 (f) any other factor the Social Security
15 Administrator considers relevant.

16 (5) 'Contributions' means the tax imposed upon
17 income of covered employees and the tax imposed
18 upon employers on account of wages paid to a
19 covered employee.

20 (6) 'Disability' means inability to engage in
21 any substantial gainful employment by reason of any
22 medically determinable physical or mental
23 impairment which can be expected to result in death
24 or which has lasted or can be expected to last for
25 a continuous period of not less than 12 months.

1 (7) 'Earning test' means that an individual
2 who receives a retirement, disability, or survivor
3 benefit and who works in covered [~~or non-covered~~]
4 employment shall have his quarterly benefit reduced
5 by one dollar for each two dollars earned in a
6 quarter, except there shall be no reduction for the
7 first \$300 earned in a quarter. The reduction
8 shall be applied in one of the subsequent two
9 quarters immediately after the quarter in which the
10 earnings were made, or as soon as possible
11 thereafter. All benefit recipients have an
12 affirmative duty to disclose to the FSM Social
13 Security Administration all earnings from [~~either~~]
14 covered [~~or non-covered~~] employment for which time
15 they are receiving or claiming benefits. Under
16 certain circumstances as defined in section 804,
17 the earnings test may not apply to old age benefits
18 received by an individual between the ages of 60
19 and 64 who turns 60, after January 1, 2011.

20 (8) 'Employee' means:

- 21 (a) any officer of a corporation; or
22 (b) any individual who, under the usual
23 common law rules applicable in determining the
24 employer-employee relationship, has the status of
25 an employee; or

1 (c) any self-employed person who has at
2 least one employee for whom he is required to
3 report in a given quarter; or

4 (d) any self-employed person who had more
5 than \$10,000 of annual gross revenue in the
6 preceding calendar year.

7 (9) 'Employer means:

8 (a) For purposes of this act, employer
9 means the person, business organization or other
10 organization, or national or state or municipal
11 government or agency, that pursuant to common law
12 rules of employment is the actual person or
13 organization responsible for the formation and
14 continuation of the working relationship with
15 employee.

16 (b) The Social Security Administration
17 has the right to determine the actual employer of
18 employees for purposes of implementing this act,
19 and need not rely on the characterization provided.

20 (c) Employer may be an individual,
21 partnership, corporation or other type of business
22 venture or non-business organization, national or
23 municipal or state organization or agencies
24 thereof, and which in certain circumstances may be
25 more than one, that is responsible for the payment

1 of all Social Security taxes. For partnerships,
2 the liability shall be joint and several among all
3 partners. For other types of business or non-
4 business organizations that are not corporations,
5 the liability shall be joint and several as if the
6 organization was a common law partnership. For
7 corporations, if the corporation fails to meet its
8 tax obligations when due, the liability shall be
9 joint and several between the president of the
10 corporation, and all shareholders with greater than
11 a 30% interest in the corporation. Under this
12 definition all such persons are jointly defined as
13 the employer, for all purposes including the
14 implementation of criminal penalties.

15 (10) 'Employment, covered' or 'covered
16 employment' means any service by an employee for an
17 employer incorporated or doing business within the
18 Federated States of Micronesia employing him,
19 irrespective of where such employment is performed,
20 except family employment.

21 ~~[(11) 'Employment, non-covered' or 'non-~~
22 ~~covered employment' means any employment engaged in~~
23 ~~by an employee where coverage is statutorily exempt~~
24 ~~in the Federated States of Micronesia, family~~
25 ~~employment, or employment by an employee outside of~~

1 ~~the Federated States of Micronesia and which is not~~
2 ~~taxable by the FSM Social Security Administration.]~~

3 ~~(12)~~(11) 'Family employment' means employment
4 of a worker by a member of the household, a parent
5 or a son or daughter except that the worker may
6 apply to the Board for a determination that such
7 employment is bona fide covered employment subject
8 to this subtitle.

9 ~~(13)~~(12) 'Insured status' can mean any of the
10 following:

11 (a) 'Currently insured individual' means
12 any individual who has had not less than 20
13 quarters of coverage during the 25 quarter period
14 ending with:

15 (i) the quarter in which he died; or

16 (ii) the quarter in which he became
17 entitled to old age insurance benefits at age sixty
18 (60);

19 (iii) the quarter in which he became
20 disabled, whichever occurs first.

21 (b) For individuals who qualified as a
22 currently insured person prior to December 31,
23 2006, the number of quarters to qualify as a
24 currently insured person was not less than eight
25 quarters of coverage during the thirteen quarter

1 period ending with:

2 (i) the quarter in which he died;

3 or

4 (ii) the quarter in which he became
5 entitled to old age insurance benefits at age sixty
6 (60);

7 (iii) the quarter in which he became
8 disabled, whichever occurs first.

9 (c) 'Fully insured individual' means any
10 individual whose total cumulative quarters of
11 coverage are at least as great as the number of
12 years calculated from the later of the date the
13 worker turned age twenty-one (21), or June 30,
14 1968, to the date the worker attains age sixty
15 (60), dies or becomes disabled. For this purpose,
16 partial years shall be counted as whole years (for
17 example 37.25 years would be rounded up to 38
18 years). In no case shall an individual be a fully
19 insured individual unless he has at least 12
20 quarters of coverage:

21 (i) For individuals who attain age
22 sixty (60), die or become disabled on or before
23 December 31, 2006, no more than thirty-eight (38)
24 quarters of coverage are required to be fully
25 insured and there is no minimum amount required for

1 employee contributions to the Social Security
2 System.

3 (ii) For individuals who turn sixty
4 (60) or die after December 31, 2006, no more than
5 fifty (50) quarters of coverage and employee
6 contributions to the Social Security System of at
7 least \$2,500 are required to be fully insured.

8 Should an individual's employee contributions total
9 less than \$2,500 as of the date of termination of
10 employment or death, the individual or their
11 surviving spouse may pay the difference to the FSM
12 Social Security Administration in a single sum
13 payment in order to become fully insured. The
14 surviving children will be eligible for benefits so
15 long as the individual was currently insured at the
16 time of the individual's death.

17 (iii) For individuals who become
18 disabled after December 31, 2006, no more than 45
19 quarters of coverage and employee contributions to
20 the Social Security System of at least \$1,500 are
21 required to be fully insured. Should an
22 individual's employee contributions total less than
23 \$1,500 as of the date of termination from
24 employment, the individual may pay the difference
25 to the FSM Social Security Administration in a

1 single sum payment in order to become fully
2 insured:

3 (d) 'Fully insured status' means:

4 (i) For individuals who turn sixty
5 (60) or die after January 01, 2010, shall have
6 total cumulative quarters of coverage equaling
7 fifty (50) quarters of coverage or greater, and
8 employee contributions to the Social Security
9 System of at least \$2,500 are required to be fully
10 insured. Employee contributions are the
11 contributions defined in section 901 only. Should
12 an individual's employee contributions total less
13 than \$2,500 as of the date of qualification as a
14 fully insured individual, the individual or their
15 surviving spouse may pay the difference to the FSM
16 Social Security Administration in a single sum
17 payment in order to be fully insured. If the
18 individual or the surviving spouse is unable to pay
19 the difference on the minimum contribution, the
20 individual or surviving spouse can opt for lump sum
21 payment equal to the total employee contribution.

22 (ii) 'Fully insured' means for
23 individuals who become disabled on or after January
24 1, 2010, at least forty-five (45) quarters of
25 coverage are needed to be defined as fully insured,

1 and they must also meet the definition of currently
2 insured at the time of the onset of their
3 disability. Additionally, employee's contributions
4 to the Social Security System of at least \$1,500
5 are required to be fully insured. Should an
6 individual's employee contribution total less than
7 \$1,500 as of the date of disability, the individual
8 may pay the difference to the FSM Social Security
9 Administration in a single lump sum payment in
10 order to be fully insured.

11 ~~(14)~~(13) 'Quarter' and 'calendar quarter' mean
12 a period of
13 three calendar months ending on March 31st, June
14 30th, September 30th, or December 31st. 'Quarter of
15 coverage' means a quarter in which the individual
16 has been paid \$300 or more in wages in covered
17 employment subject to this subtitle.

18 ~~(15)~~(14) 'Wages' means remuneration paid
19 subject to the provisions of this subtitle,
20 including the cash value of all remuneration paid
21 in any medium other than cash and remuneration
22 accruing to a self-employed person. Remuneration
23 accruing to a self-employed person shall be deemed
24 to be twice the amount paid to the highest paid
25 employee reported by the self-employed person in a

1 quarter, with a maximum of \$3,000 per quarter
2 through September 30, 2003 and a maximum of \$5,000
3 per quarter beginning October 1, 2003. This
4 maximum quarterly amount shall increase to \$6,000
5 on January 1, 2008, \$7,000 on January 1, 2013,
6 \$8,000 on January 1, 2018, \$9,000 on January 1,
7 2023, and \$10,000 on January 1, 2028. Remuneration
8 accruing to a self-employed person who has no
9 covered employees shall, for each quarter of a
10 year, be deemed to be five (5) percent of the gross
11 revenue of the business or gross revenue of all
12 businesses for the previous calendar year, subject
13 to a \$3,000 maximum per quarter through September
14 30, 2003 and a maximum of \$5,000 per quarter
15 beginning October 1, 2003. This maximum quarterly
16 amount shall increase to \$6,000 on January 1, 2008,
17 \$7,000 on January 1, 2013, \$8,000 on January 1,
18 2018, \$9,000 on January 1, 2023, and \$10,000 on
19 October 1, 2028. Remuneration paid for any
20 service, which is more or less than a whole dollar
21 shall, as may be prescribed by regulations, be
22 computed to the nearest dollar. Wages shall not
23 include:

24 (a) that part of remuneration in excess
25 of \$3,000 through September 30, 2003 and in excess

1 of \$5,000 beginning October 1, 2003, in excess of
2 \$6,000 beginning January 1, 2008, in excess of
3 \$7,000 beginning January 1, 2013, in excess of
4 \$8,000 beginning January 1, 2018, in excess of
5 \$9,000 beginning on January 1, 2023, and in excess
6 of \$10,000 beginning on January 1, 2028, paid in a
7 quarterly reporting period by one employer;

8 (b) any payment on account of sickness or
9 accident disability, or medical or hospitalization
10 expenses made by an employer to or on behalf of an
11 employee;

12 (c) any payment made to or on behalf of
13 an employee or to the employee's beneficiary from a
14 trust or annuity;

15 (d) remuneration paid in any medium other
16 than cash to an employee for service not in the
17 course of the employer's trade or business or for
18 domestic service in a private home of an employer;

19 (e) remuneration paid for casual or
20 intermittent labor not performed in the course of
21 the employer's trade or business when such
22 employment does not exceed employment in more than
23 one week in each calendar month of each quarterly
24 reporting period; and

25 (f) remuneration from family employment

1 subject to the provisions of this subtitle.”

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

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6 Date: 11/30/09

Introduced by: /s/ Setiro Paul
Setiro Paul

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/s/ Tony H. Otto
Tony H. Otto

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