
A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending section 112, as amended by Public Law Nos. 10-93, 10-149, 12-18, 14-40, and 14-90, and section 141, as amended by Public Law No. 14-90 for the purpose of providing a tax break to new businesses, 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 Laws Nos.
3 10-93, 10-149, 12-18, 14-40, and 14-90, is hereby amended to
4 read as follows:

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

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

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

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

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

17 (5) 'Gross revenue' means the gross receipts, cash
18 or accrued, of the taxpayer received as compensation
19 for personal services and the gross receipts of the
20 taxpayer derived from trade, business, commerce, or
21 sales and the value proceeding or accruing from the
22 sale of tangible personal property, or services, or
23 both, and all receipts, actual or accrued by reason
24 of the capital of the business engaged in, including
25 interest, rentals, royalties, fees, or other

1 emoluments however designated and without any
2 deductions on account of the cost of property sold,
3 the cost of materials used, taxes, royalties, or
4 interest paid or any other expenses whatsoever.

5 Gross revenue shall not include the following:

6 (a) refunds and rebates;

7 (b) moneys held in a fiduciary capacity;

8 (c) wages and salaries, received by the
9 taxpayer, which are taxed under other provisions of
10 this chapter;

11 (d) sale payments received for the sale of a
12 commercial aircraft, to the extent that such sale
13 payments in any quarter shall equal the rental
14 payments made to the buyer/lessor by the
15 seller/lessee of such aircraft for its rental by the
16 seller/lessee;

17 (e) rental payments received for the rental of
18 a commercial aircraft, to the extent that such rental
19 payments in any quarter shall equal the sale payments
20 made to the seller/lessee by the buyer/lessor of such
21 aircraft for its purchase by the buyer/lessor;

22 (f) cash discounts allowed and taken on sales,
23 the proceeds of sale of goods, wares, or merchandise
24 returned by customers when the sale price is refunded
25 either in cash or by credit; or the sale price of any

1 article accepted as part of payment of any new
2 article sold, if the full sale price of a new article
3 is included in 'gross revenue';

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

12 (h) proceeds of export sales of tangible
13 personal property produced or manufactured in the
14 Federated States of Micronesia and delivered to a
15 buyer outside the Federated States of Micronesia;

16 (i) proceeds of sales of products of a
17 processing facility in the Federated States of
18 Micronesia which are subsequently exported from, and
19 not used in, the Federated States of Micronesia;

20 (j) proceeds of sales of fish by foreign or
21 domestic fishing vessels to processing facilities
22 within the Federated States of Micronesia; or

23 (k) proceeds of sales of bait fish to foreign
24 or domestic fishing vessels.

25 (l) proceeds from (i) recycling waste paper,

1 plastic, aluminum, tin or other scrap metal, or glass
2 so that such materials may be re-used, (ii) removing
3 such waste materials, motor vehicles, appliances,
4 batteries, paint or toxic chemicals from the
5 Federated States of Micronesia for disposal or
6 recycling; or (iii) collecting such waste materials,
7 motor vehicles, appliances, batteries, paint or toxic
8 chemicals for the purposes of removal from the
9 Federated States of Micronesia for recycling or
10 disposal.

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

17 (7) 'Month' means calendar month.

18 (8) 'Taxable Gross Revenues' shall mean, for any
19 tax period, the figure calculated by deducting from
20 the Gross Revenues for the period, the following
21 expenses of the business for that period:

22 (a) wages, salaries and benefits reasonably
23 paid by the taxpayer to or on behalf of employees of
24 the business for personal services relating to
25 producing the Gross Revenues, as such wages and

1 salaries are reported pursuant to subchapter III of
2 chapter 1 of title 54 of the Code of the Federated
3 States of Micronesia; and

4 (b) Social Security contributions by the
5 business in respect of its employees pursuant to
6 section 902 of title 53 of the Code of the Federated
7 States of Micronesia.

8 (9) 'Processing facility' means a business that
9 prepares, alters, and/or packages raw materials into
10 a finished product for resale.

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

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

22 (12) 'Secretary' means the Secretary of the
23 Department of Finance and Administration.

24 (13) 'Start-up period' means the period of five (5)
25 years following the commencement of business

1 operation of a new business. A mere change of
2 ownership, change of name, change of scope of
3 business operation, or the like, does not entitle a
4 business to a start-up period.

5 (~~13~~14) 'Wages' or 'Salaries' means and includes
6 commissions, fees, compensation, emoluments, bonuses,
7 and every and all other kinds of compensation paid
8 for, or credited or attributable to, personal
9 services performed by an individual, which services
10 have been performed by such person as an employee.

11 Wages and salaries shall not include the following:

12 (a) any payment received from the United
13 States by members of the Military or Naval Forces of
14 the United States or the Armed Forces of the United
15 States;

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

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

23 (d) any payment on account of sickness or
24 accident disability, or any payment of medical or
25 hospitalization expenses, made by an employer to or

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

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

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

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

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

20 (i) any payment received by a minister of the
21 gospel or clergyman from a religious group or
22 organization;

23 (j) any payment received by an employee for
24 services performed as a domestic or household
25 employee for a private individual or family;

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

11 (1) the foreign service premium authorized by
12 section 163 of title 52 of the Code of the Federated
13 States of Micronesia.

14 (~~14~~15) 'Year' means calendar year."

15 Section 2. Section 141 of title 54 of the Code of the
16 Federated States of Micronesia, as amended by Public Law No.
17 14-90, is hereby, further amended to read as follows:

18 "Section 141. Tax on gross revenues; Exemption.

19 (1) There shall be assessed, levied, collected, and
20 paid a tax of \$80 per year upon that portion of the
21 amount of taxable gross revenues earned by every
22 business subject to the provisions of this chapter
23 which does not exceed \$10,000 per year.

24 (2) There shall be assessed, levied, collected, and
25 paid a tax of three percent per year upon that

1 portion of the amount of taxable gross revenues
2 earned by every business subject to the provisions of
3 this chapter which is in excess of \$10,000 per year.

4 (3) Businesses which earn gross revenues of not
5 more than \$2,000 per year are exempt from taxation
6 under this section. The deduction shall be claimed
7 by the business by filing for a refund under the
8 provisions of sections 122 and 123 of this chapter.

9 (4) For the purpose of section 805 of this title,
10 every business that operates in more than one State
11 of the Federated States of Micronesia shall file a
12 separate tax return for revenue collected in each
13 State.

14 (5) Any business operating within its start-up
15 period, as defined in section 112, is exempt from
16 taxation under this section in any quarter for which
17 the business's taxable gross revenue for that quarter
18 do not exceed \$12,500. A business operating within
19 its start-up period is entitled to a deduction at the
20 time of filing its gross revenues tax return as
21 required by section 143. Such deduction shall be in
22 the amount of the business's taxable gross revenue as
23 reported on the business's gross revenues tax return.
24 Nothing in this subsection shall exempt a business
25 from any penalties or interest provided for in this

