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A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by further amending section 112, as amended by Public Law No. 7-41; by amending section 142; and by adding new sections 145, 146, and 147; for the purpose of revising the tax laws of the Federated States of Micronesia; 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. 7-41, is
3 hereby further amended to read as follows:

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

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

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

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

24 (4) 'Employer' includes any individual, corporation,
25 association, joint stock company, bank, insurance company,

1 credit union, cooperative, or other equity or group employing
2 any person, and also includes the Federated States of
3 Micronesia, State and local governments, and their agencies,
4 charged with the disbursement of public moneys as salaries or
5 wages. 'Employer' also includes the United States Government
6 and instrumentalities thereof.

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

- 21 (a) refunds and rebates;
- 22 (b) moneys held in a fiduciary capacity;
- 23 (c) income in the form of wages and salaries
24 which are taxed under other provisions of this chapter;
- 25 (d) sale payments received for the sale of a

1 commercial aircraft, to the extent that such sale payments in
2 any quarter shall equal the rental payments made to the buyer
3 by the seller of such aircraft for its rental by seller;

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

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

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

21 (6) 'Military or Naval Forces of the United States' and
22 'Armed Forces of the United States' means all regular and
23 reserve components of the uniformed services which are subject
24 to the jurisdiction of the Secretary of the Army, Navy, or Air
25 Force, and also includes the Coast Guard.

1 (7) 'Month' means calendar month.

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

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

10 (10) 'Secretary' means the Secretary of the Department
11 of Finance.

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

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

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

24 (c) rental value of a home furnished to any
25 employee or a reasonable rental allowance paid to any employee

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

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

12 (12) 'Year' means calendar year.

13 (13) The revenue jurisdiction of the Federated States
14 of Micronesia includes the Exclusive Economic Zone of the
15 Federated States of Micronesia and thus the exploitation of
16 the pelagic resources in the EEZ is carried out within the
17 Federated States of Micronesia."

18 Section 2. Section 142 of title 54 of the Code of the Federated
19 States of Micronesia is hereby amended to read as follows:

20 "Section 142. Source of gross revenue; Apportionment.

21 (1) If any business earns or derives its gross revenue
22 from business activities or undertakings both within and
23 without the Federated States of Micronesia, including
24 the Exclusive Economic Zone of the Federated States of
25 Micronesia, during the taxable year, then the whole of its

1 gross revenue shall be presumed to have been derived from
2 sources within the Federated States of Micronesia.

3 (2) Revenue earned in or derived from sources or
4 transactions or parts of transactions within the Federated
5 States of Micronesia, including the EEZ of the Federated
6 States of Micronesia, shall be subject to the gross revenue
7 tax, as revenue within the Federated States of Micronesia.

8 (3) No distinction shall be made between foreign
9 fishing in the Exclusive Economic Zone of the Federated
10 States of Micronesia and foreign fishing in the territorial
11 waters of the Federated States of Micronesia for tax
12 purposes.

13 (4) The business may file for an apportionment of
14 the tax on a form prescribed by the Secretary and the tax
15 shall be levied only on that portion which is earned in or
16 derived from sources or transactions or parts of
17 transactions within the Federated States of Micronesia

18 (5) Revenue from the sale of goods outside the
19 Federated States of Micronesia that is derived from sources
20 or transactions or parts of transactions within the
21 Federated States of Micronesia, including the EEZ of the
22 Federated States of Micronesia, by businesses within the
23 Federated States of Micronesia shall be subject to the gross
24 revenue tax.

25 (6) There may be a limited exception to subsection

1 (5) above. The Congress of the Federated States of
2 Micronesia may approve a Tax Agreement submitted by the Tax
3 Commissioner granting a limited exemption to the gross
4 revenue tax pursuant to sections 145, 146 and 147."

5 Section 3. Title 54 of the Code of the Federated States of
6 Micronesia is hereby further amended by adding a new section 145
7 to read as follows:

8 "Section 145. Tax exemption agreements.
9 The Tax Commissioner is authorized to negotiate proposed
10 tax agreements. Such agreements, with the approval of the
11 Congress of the Federated States of Micronesia, may exempt
12 the party seeking the exemption for the gross revenue tax."

13 Section 4. Title 54 of the Code of the Federated States of
14 Micronesia is hereby further amended by adding a new section 146 to read
15 as follows:

16 "Section 146. Approval of tax exemption agreements.

17 (1) To take effect, a tax exemption agreement
18 shall require the approval of the Congress of the
19 Federated States of Micronesia by resolution.

20 (2) The Committee on Ways and Means of the
21 Congress of the Federated States of Micronesia may
22 approve such an agreement if the Congress is not in
23 session.

24 (3) The Tax Commissioner, in consultation with the
25 Secretary of Finance, shall submit to the Congress of the

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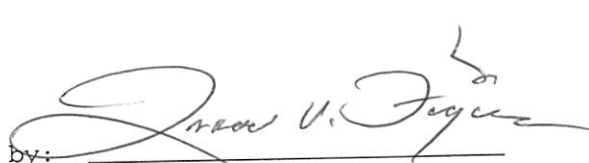
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1 Federated States of Micronesia for approval, each
2 proposed tax agreement requesting the tax exemption,
3 which tax agreement shall include:
4 (a) an economic analysis of the costs and
5 benefits of the tax exemption;
6 (b) projected revenue returns on the business;
7 (c) other justifications for the tax exemption;
8 and
9 (d) such additional information as the Tax
10 Commissioner may require, by regulation, as is necessary to
11 implement and enforce the provisions of this title."

12 Section 5. Title 54 of the Code of the Federated States of
13 Micronesia is hereby further amended by adding a new section 147 to
14 read as follows:

15 "Section 147. Tax exemption agreement procedural rules.
16 The Secretary of Finance shall, by regulation, establish
17 procedures for submission and review of applications for
18 tax exemptions of the gross receipt tax, as is necessary to
19 implement and enforce the provisions of this title."

20 Section 6. This act shall become law upon approval by the
21 President of the Federated States of Micronesia or upon its becoming
22 law without such approval.

23
24 Date: 5-29-95 Introduced by: 
25 Isaac V. Figir