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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, for the purpose of exempting foreign sales of fish from the gross revenue 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 economic
12 benefit either direct or indirect, and excludes casual
13 sales, as determined by the Secretary; however, one who
14 qualifies as an employee under this section shall not be
15 considered as a business. Copra production by
16 unincorporated copra producers collectively or severally
17 shall not be included as a business under this
18 definition.

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

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

25 (4) 'Employer' includes any individual,

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

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

- 24 (a) refunds and rebates;
- 25 (b) moneys held in a fiduciary capacity;

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1 (c) income in the form of wages and salaries
2 which are taxed under other provisions of this chapter;

3 (d) sale payments received for the sale of a
4 commercial aircraft, to the extent that such sale
5 payments in any quarter shall equal the rental payments
6 made to the buyer by the seller of such aircraft for its
7 rental by seller;

8 (e) rental payments received for the rental of
9 a commercial aircraft, to the extent that such rental
10 payments in any quarter shall equal the sale payments
11 made to the lessor by lessee of such aircraft for its
12 purchase by the lessor;

13 (f) cash discounts allowed and taken on sales,
14 the proceeds of sale of goods, wares, or merchandise
15 returned by customers when the sale price is refunded
16 either in cash or by credit; or the sale price of any
17 article accepted as part of payment of any new article
18 sold, if the full sale price of a new article is
19 included in 'gross revenue'; ~~of~~

20 (g) gross revenue received by an international
21 organization, foreign contractor, or other foreign
22 entity paid from foreign aid proceeds donated to the
23 Federated States of Micronesia pursuant to a foreign aid
24 agreement entered into by the Federated States of
25 Micronesia, the terms of which require that such gross

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1 revenue shall not be subject to taxation by the
2 Government of the Federated States of Micronesia; or
3 (h) sale payments received from the sale
4 outside the Federated States of Micronesia of fresh,
5 processed, packaged, or canned fish or fish products
6 exported from the Federated States of Micronesia, but
7 only if that such export occurs before July 1, 1997.

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

14 (7) 'Month' means calendar month.

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

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

25 (10) 'Secretary' means the Secretary of the

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1 Department of Finance.

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

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

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

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

20 (d) any payment on account of sickness or
21 accident disability, or any payment of medical or
22 hospitalization expenses, made by an employer to or on
23 behalf of an employee; provided, however, that normal
24 wages or salaries paid to an employee for a period of
25 time during which he is excused from work because of

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1 sickness shall not be excluded from wages and salaries
2 under this subsection;

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

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

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

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

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

20 (j) wages and salaries received by an employee
21 for services performed or rendered in the capacity of a
22 domestic or household employee for a private individual
23 or family; or

24 (k) wages and salaries received by an
25 employee, who is not a citizen of the Federated States

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

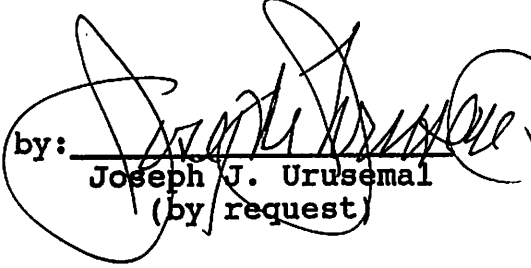
9 (12) 'Year' means calendar year."

10 Section 2. The amendment provided for by section 1 of this
11 act shall be applied retroactively.

12 Section 3. The "Presidential Declaration of Policy" dated
13 April 27, 1995, exempting from the gross revenue tax all goods
14 sold outside the FSM by businesses within the FSM, is hereby
15 revoked and superseded.

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

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20 Date: 5/17/95

Introduced by: 
Joseph J. Urusemal
(by request)

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