

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 thereof to exempt, from the gross revenues tax, proceeds from waste recycling and certain other activities that promote environmental quality, 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. 10-
3 93, 10-149 and 12-18, is hereby further amended to read as
4 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 economic
13 benefit either direct or indirect, and excludes casual
14 sales, as determined by the Secretary; however, one who
15 qualifies as an employee under this section shall not be
16 considered as a business. Copra production by
17 unincorporated copra producers collectively or severally
18 shall not be included as a business under this
19 definition.

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

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

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

14 'Employer' also includes the United States Government
15 and instrumentalities thereof.

16 (5) 'Gross revenue' means the gross receipts, cash or
17 accrued, of the taxpayer received as compensation for
18 personal services and the gross receipts of the taxpayer
19 derived from trade, business, commerce, or sales and the
20 value proceeding or accruing from the sale of tangible
21 personal property, or services, or both, and all
22 receipts, actual or accrued by reason of the capital of
23 the business engaged in, including interest, rentals,
24 royalties, fees, or other emoluments however designated
25 and without any deductions on account of the cost of

1 property sold, the cost of materials used, labor cost,
2 taxes, royalties, or interest paid or any other expenses
3 whatsoever. Gross revenue shall not include the
4 following:

5 (a) refunds and rebates;

6 (b) moneys held in a fiduciary capacity;

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

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

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

19 (f) cash discounts allowed and taken on sales,
20 the proceeds of sale of goods, wares, or merchandise
21 returned by customers when the sale price is refunded
22 either in cash or by credit; or the sale price of any
23 article accepted as part of payment of any new article
24 sold, if the full sale price of a new article is
25 included in 'gross revenue';

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

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

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

17 (j) proceeds of sales of fish by foreign or
18 domestic fishing vessels to processing facilities within
19 the Federated States of Micronesia; ~~[or]~~

20 (k) proceeds of sales of bait fish to foreign or
21 domestic fishing vessels; or

22 (l) proceeds from (i) recycling waste paper,
23 metal or glass so that such materials may be re-used,
24 (ii) removing such waste materials, motor vehicles,
25 appliances, paint or toxic chemicals from the Federated

1 States of Micronesia for disposal or recycling; or (iii)
2 collecting such waste materials, motor vehicles,
3 appliances, paint or toxic chemicals for the purposes of
4 removal from the Federated States of Micronesia for
5 recycling or disposal.

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

12 (7) 'Month' means calendar month.

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

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

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

1 (11) 'Secretary' means the Secretary of the Department
2 of Finance and Administration.

3 (12) 'Wages' or 'Salaries' means and includes
4 commissions, fees, compensation, emoluments, bonuses,
5 and every and all other kinds of compensation paid for,
6 or 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) any payment received from the United States
11 by members of the Military or Naval Forces of the United
12 States or the Armed Forces of the United States;

13 (b) reasonable per diem and travel allowances to
14 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

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;

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

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

16 (i) any payment received by a minister of the
17 gospel or clergyman from a religious group or
18 organization;

19 (j) any payment received by an employee for
20 services performed as a domestic or household employee
21 for a private individual or family;

22 (k) any payment received by an employee, who is
23 not a citizen of the Federated States of Micronesia,
24 while employed by an international organization, foreign
25 contractor, or other foreign entity performing services

1 or otherwise conducting business in furtherance of a
2 foreign aid agreement entered into by the Federated
3 States of Micronesia, the terms of which require that
4 such wages and salaries shall not be subject to taxation
5 by the Government of the Federated States of Micronesia;
6 or

7 (1) the foreign service premium authorized by
8 section 163 of title 52 of the Code of the Federated
9 States of Micronesia.

10 (13) 'Year' means calendar year."

11 Section 2. This act shall become law upon approval by the
12 President of the Federated States of Micronesia or upon it
13 becoming law without such approval.

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15 Date: 5/18/05

Introduced by: /s/ Isaac V. Figir
Isaac V. Figir

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