

A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending sections 112, 141 and 143 thereof to permit certain deductions for purposes of 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 Laws Nos.10-
3 93, 10-149 and 12-18 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 capable

1 of and intended for use in commercial aviation.

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

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

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

1 taxes, royalties, or interest paid or any other expenses
2 whatsoever. Gross revenue shall not include the
3 following:

4 (a) refunds and rebates;

5 (b) moneys held in a fiduciary capacity;

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

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

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

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

25 (g) funds received by an international

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

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

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

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

19 (k) proceeds of sales of bait fish to foreign or
20 domestic fishing vessels.

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

1 Coast Guard.

2 (7) 'Month' means calendar month.

3 (8) 'Taxable Gross Revenues' shall mean, for any tax
4 period, the figure calculated by deducting from the
5 Gross Revenues for the period, the following expenses of
6 the business for that period:

7 (a) wages, salaries and benefits reasonably paid
8 by the taxpayer to or on behalf of employees of the
9 business for personal services relating to producing the
10 Gross Revenues, as such wages and salaries are reported
11 pursuant to subchapter III of chapter 1 of title 54 of
12 the Code of the Federated States of Micronesia; and

13 (b) Social Security contributions by the business
14 in respect of its employees pursuant to section 902 of
15 title 53 of the Code of the Federated States of
16 Micronesia.

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

20 ~~(9)~~ (10) 'Purchase payments' means payments on the actual
21 selling price, including any interest, carrying charges,
22 or other charges associated with a sale. As used
23 herein, the word 'sale' implies a transfer of ownership
24 of that which is sold, in exchange for the purchase
25 payments or promise thereof.

1 ~~[(10)]~~ (11) 'Rental payments' means any payments made in
2 exchange for use or rental, and includes interest,
3 carrying charges, or other charges associated with use
4 or rental.

5 ~~[(11)]~~ (12) 'Secretary' means the Secretary of the
6 Department of Finance and Administration.

7 ~~[(12)]~~ (13) 'Wages' or 'Salaries' means and includes
8 commissions, fees, compensation, emoluments, bonuses,
9 and every and all other kinds of compensation paid for,
10 or credited or attributable to, personal services
11 performed by an individual, which services have been
12 performed by such person as an employee. Wages and
13 salaries shall not include the following:

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

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

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

24 (d) any payment on account of sickness or
25 accident disability, or any payment of medical or

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

7 (e) any payment made to or on behalf of an
8 employee or to his beneficiary from a trust or 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 intermittent
13 labor not performed in the ordinary course of the
14 employer's trade or business and for not more than one
15 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 is
18 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 employee
25 for a private individual or family;

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

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

14 [~~13~~] (14) 'Year' means calendar year."

15 Section 2. Section 141 of title 54 of the Code of the
16 Federated States of Micronesia is hereby amended to read as
17 follows:

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

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

24 (2) There shall be assessed, levied, collected,
25 and 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
3 of this chapter which is in excess of \$10,000 per
4 year.

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

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

15 Section 3. Section 143 of title 54 of the Code of the
16 Federated States of Micronesia is hereby amended to read as
17 follows:

18 "Section 143. Returns and payment of tax on
19 taxable gross revenue.

20 (1) Every business, on or before the last day of
21 the month following the close of each quarter, to
22 wit: on or before April 30, July 31, October 31,
23 January 31, shall pay, based on its taxable gross
24 revenue of the preceding quarter, the amount of tax
25 imposed by this chapter to the National revenue
26 officer in the State in which the business has its

1 principal place of business in the Federated States
2 of Micronesia, or to the Secretary.

3 (2) Each business shall, on or before the date
4 provided for payment of tax under this section,
5 make a full, true, and correct return showing all
6 [~~such~~] gross revenue received, accrued, or earned
7 by the business, the taxable gross revenues of the
8 business, the expenses for wages and salaries and
9 social security contributions claimed by the
10 business in calculating its taxable gross revenue
11 and the amounts deducted and set aside on account
12 [~~thereof~~] of the taxable gross revenues during the
13 preceding quarter.

14 (3) The return shall be filed at the place in
15 this section prescribed for payment of the tax and
16 shall include such other information as shall be
17 required or prescribed by the Secretary. The
18 Secretary, for good cause, may extend the time for
19 making payments and returns, but not beyond the
20 last day of the first month succeeding the regular
21 due date thereof.

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

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26 Date: _5/12/05

Introduced by: /s/ Isaac v. Frigir

Isaac V. Figir

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