
A BILL FOR AN ACT

To further amend title 53 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 12-76, 14-37, 14-86, 15-73, and 16-10 by amending section 603 to increase the amount exempted from the earnings test, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 603 of title 53 of the Code of the
2 Federated States of Micronesia, as amended by Public Laws Nos. 12-
3 76, 14-37, 14-86, 15-73, and 16-10 is hereby further amended to
4 read as follows:

5 "Section 603 Definitions of title 53 of the Code of the
6 Federated States of Micronesia, as amended, is hereby
7 further amended to read as follows:

8 (1) 'Application' means the prescribed form or forms
9 provided to individuals by the Social Security
10 Administrator as the exclusive means by which an
11 individual may apply for the payment of any benefit
12 provided for in section 801, 802, 803 or 803A of this
13 act.

14 (2) 'Became disabled' means the first month in which
15 an individual is under a disability.

16 (3) 'Board' means the Federated States of Micronesia
17 Social Security Board provided for by section 701 of
18 this subtitle.

19 (4) 'Child or spouse' means an applicant that the

1 court of the State in which an individual was domiciled
2 at the time of his death has or would find to be the
3 individual's child or spouse in determining the
4 devolution of intestate personal property. 'Child'
5 shall include only the deceased individual's biological
6 children and such adopted children whose confirmed
7 petition for adoption by the wage earner has been
8 presented to the Social Security Administration and who
9 were adopted by the wage earner on or prior to the wage
10 earner's 55th birthday of the adopting parent, shall be a
11 'child' for the purposes of this title unless, the
12 Social Security Administrator makes a determination
13 that, due to exceptional circumstances, the person shall
14 be so entitled. In reaching a determination that
15 exceptional circumstances apply, the Social Security
16 Administrator shall satisfy himself or herself that
17 future eligibility for social security benefits was not
18 a significant factor in the decision to adopt and may
19 consider any available, relevant information including,
20 but not limited to:

21 (a) whether the adopted child's biological
22 mother, and/or biological father were alive at the time
23 the adoption took place;

24 (b) if one or both biological parents were alive
25 at the time of adoption, whether one or both parents

1 were acting or were capable of acting as a primary
2 caregiver at that time;

3 (c) whether the adopting parent is a relative of
4 the adopted child;

5 (d) whether, at the time the adoption took
6 place, there were relatives, not including the adopting
7 parents, who would have been appropriate guardians for
8 the adopted child;

9 (e) whether the adopting parent was a primary
10 caregiver for the adopted child at the time of adoption
11 and continued in that role after the adoption took
12 place;

13 (f) any other factor the Social Security
14 Administrator considers relevant.

15 (5) 'Contributions' means the tax imposed upon income
16 of covered employees and the tax imposed upon employers
17 on account of wages paid to a covered employee.

18 (6) 'Disability' means inability to engage in any
19 substantial gainful employment by reason of any
20 medically determinable physical or mental impairment
21 which can be expected to result in death or which has
22 lasted or can be expected to last for a continuous
23 period of not less than 12 months.

24 (7) 'Earning test' means that an individual who
25 receives a retirement, disability, or survivor benefit

1 and who works in covered or non-covered employment shall
2 have his quarterly benefit reduced by one dollar for
3 each two dollars earned in a quarter, except there shall
4 be no reduction for the first \$600 earned in a quarter.
5 The reduction shall be applied in one of the subsequent
6 two quarters immediately after the quarter in which the
7 earnings were made, or as soon as possible thereafter.
8 All benefit recipients have an affirmative duty to
9 disclose to the FSM Social Security Administration all
10 earnings from either covered or non-covered employment
11 for which time they are receiving or claiming benefits.
12 Under certain circumstances as defined in section 804,
13 the earnings test may not apply to old age benefits
14 received by an individual between the ages of 60 and 64
15 who turns 60, after January 1, 2011.

16 (8) 'Employee' means:

17 (a) any officer of a corporation; or

18 (b) any individual who, under the usual common
19 law rules applicable in determining the employer-
20 employee relationship, has the status of an employee; or

21 (c) any self-employed person who has at least one
22 employee for whom he is required to report in a given
23 quarter; or

24 (d) any self-employed person who had more than
25 \$10,000 of annual gross revenue in the preceding

1 calendar year.

2 (9) 'Employer means:

3 (a) For purposes of this act, employer means the
4 person, business organization or other organization, or
5 national or state or municipal government or agency,
6 that pursuant to common law rules of employment is the
7 actual person or organization responsible for the
8 formation and continuation of the working relationship
9 with employee.

10 (b) The Social Security Administration has the
11 right to determine the actual employer of employees for
12 purposes of implementing this act, and need not rely on
13 the characterization provided.

14 (c) Employer may be an individual, partnership,
15 corporation or other type of business venture or non-
16 business organization, national or municipal or state
17 organization or agencies thereof, and which in certain
18 circumstances may be more than one, that is responsible
19 for the payment of all Social Security taxes. For
20 partnerships, the liability shall be joint and several
21 among all partners. For other types of business or non-
22 business organizations that are not corporations, the
23 liability shall be joint and several as if the
24 organization was a common law partnership. For
25 corporations, if the corporation fails to meet its tax

1 obligations when due, the liability shall be joint and
2 several between the president of the corporation, and
3 all shareholders with greater than a 30% interest in the
4 corporation.

5 Under this definition all such persons are jointly
6 defined as the employer, for all purposes including the
7 implementation of criminal penalties.

8 (10) 'Employment, covered' or 'covered employment'
9 means any service by an employee for an employer
10 incorporated or doing business within the Federated
11 States of Micronesia employing him, irrespective of
12 where such employment is performed, except family
13 employment.

14 (11) 'Employment, non-covered' or 'non-covered
15 employment' means any employment engaged in by an
16 employee where coverage is statutorily exempt in the
17 Federated States of Micronesia, family employment, or
18 employment by an employee outside of the Federated
19 States of Micronesia and which is not taxable by the FSM
20 Social Security Administration.

21 (12) 'Family employment' means employment of a
22 worker by a member of the household, a parent or a son
23 or daughter except that the worker may apply to the
24 Board for a determination that such employment is bona
25 fide covered employment subject to this subtitle.

1 (13) 'Insured status' can mean any of the
2 following:

3 (a) 'Currently insured individual' means any
4 individual who has had not less than 20 quarters of
5 coverage during the 25 quarter period ending with:

6 (i) the quarter in which he died; or

7 (ii) the quarter in which he became entitled
8 to old age insurance benefits at age sixty (60);

9 (iii) the quarter in which he became disabled,
10 whichever occurs first.

11 (b) For individuals who qualified as a currently
12 insured person prior to December 31, 2006, the number of
13 quarters to qualify as a currently insured person was
14 not less than eight quarters of coverage during the
15 thirteen quarter period ending with:

16 (i) the quarter in which he died; or

17 (ii) the quarter in which he became entitled
18 to old age insurance benefits at age sixty (60);

19 (iii) the quarter in which he became disabled,
20 whichever occurs first.

21 (c) 'Fully insured individual' means any
22 individual whose total cumulative quarters of coverage
23 are at least as great as the number of years calculated
24 from the later of the date the worker turned age twenty-
25 one (21), or June 30, 1968, to the date the worker

1 attains age sixty (60), dies or becomes disabled. For
2 this purpose, partial years shall be counted as whole
3 years (for example 37.25 years would be rounded up to 38
4 years). In no case shall an individual be a fully
5 insured individual unless he has at least 12 quarters of
6 coverage:

7 (i) For individuals who attain age sixty
8 (60), die or become disabled on or before December 31,
9 2006, no more than thirty-eight (38) quarters of
10 coverage are required to be fully insured and there is
11 no minimum amount required for employee contributions to
12 the Social Security System.

13 (ii) For individuals who turn sixty (60) or
14 die after December 31, 2006, no more than fifty (50)
15 quarters of coverage and employee contributions to the
16 Social Security System of at least \$2,500 are required
17 to be fully insured. Should an individual's employee
18 contributions total less than \$2,500 as of the date of
19 termination of employment or death, the individual or
20 their surviving spouse may pay the difference to the FSM
21 Social Security Administration in a single sum payment
22 in order to become fully insured. The surviving
23 children will be eligible for benefits so long as the
24 individual was currently insured at the time of the
25 individual's death.

1 (iii) For individuals who become disabled
2 after December 31, 2006, no more than 45 quarters of
3 coverage and employee contributions to the Social
4 Security System of at least \$1,500 are required to be
5 fully insured. Should an individual's employee
6 contributions total less than \$1,500 as of the date of
7 termination from employment, the individual may pay the
8 difference to the FSM Social Security Administration in
9 a single sum payment in order to become fully insured:

10 (d) 'Fully insured status' means:

11 (i) For individuals who turn sixty (60) or
12 die after January 01, 2010, shall have total cumulative
13 quarters of coverage equaling fifty (50) quarters of
14 coverage or greater, and employee contributions to the
15 Social Security System of at least \$2,500 are required
16 to be fully insured. Employee contributions are the
17 contributions defined in section 901 only. Should an
18 individual's employee contributions total less than
19 \$2,500 as of the date of qualification as a fully
20 insured individual, the individual or their surviving
21 spouse may pay the difference to the FSM Social Security
22 Administration in a single sum payment in order to be
23 fully insured. If the individual or the surviving
24 spouse is unable to pay the difference on the minimum
25 contribution, the individual or surviving spouse can opt

1 for lump sum payment equal to the total employee
2 contribution.

3 (ii) 'Fully insured' means for individuals
4 who become disabled on or after January 1, 2010, at
5 least forty-five (45) quarters of coverage are needed to
6 be defined as fully insured, and they must also meet the
7 definition of currently insured at the time of the onset
8 of their disability. Additionally, employee's
9 contributions to the Social Security System of at least
10 \$1,500 are required to be fully insured. Should an
11 individual's employee contribution total less than
12 \$1,500 as of the date of disability, the individual may
13 pay the difference to the FSM Social Security
14 Administration in a single lump sum payment in order to
15 be fully insured.

16 (14) 'Quarter' and 'calendar quarter' mean a period of
17 three calendar months ending on March 31st, June 30th,
18 September 30th, or December 31st. 'Quarter of coverage'
19 means a quarter in which the individual has been paid
20 \$300 or more in wages in covered employment subject to
21 this subtitle.

22 (15) 'Wages' means remuneration paid subject to the
23 provisions of this subtitle, including the cash value of
24 all remuneration paid in any medium other than cash and
25 remuneration accruing to a self-employed person.

1 Remuneration accruing to a self-employed person shall be
2 deemed to be twice the amount paid to the highest paid
3 employee reported by the self-employed person in a
4 quarter, with a maximum of \$3,000 per quarter through
5 September 30, 2003 and a maximum of \$5,000 per quarter
6 beginning October 1, 2003. This maximum quarterly
7 amount shall increase to \$6,000 on January 1, 2008,
8 \$7,000 on January 1, 2013, \$8,000 on January 1, 2018,
9 \$9,000 on January 1, 2023, and \$10,000 on January 1,
10 2028. Remuneration accruing to a self-employed person
11 who has no covered employees shall, for each quarter of
12 a year, be deemed to be five (5) percent of the gross
13 revenue of the business or gross revenue of all
14 businesses for the previous calendar year, subject to a
15 \$3,000 maximum per quarter through September 30, 2003
16 and a maximum of \$5,000 per quarter beginning October 1,
17 2003. This maximum quarterly amount shall increase to
18 \$6,000 on January 1, 2008, \$7,000 on January 1, 2013,
19 \$8,000 on January 1, 2018, \$9,000 on January 1, 2023,
20 and \$10,000 on October 1, 2028. Remuneration paid for
21 any service, which is more or less than a whole dollar
22 shall, as may be prescribed by regulations, be computed
23 to the nearest dollar. Wages shall not include:

24 (a) that part of remuneration in excess of \$3,000
25 through September 30, 2003 and in excess of \$5,000

1 beginning October 1, 2003, in excess of \$6,000
2 beginning January 1, 2008, in excess of \$7,000 beginning
3 January 1, 2013, in excess of \$8,000 beginning January
4 1, 2018, in excess of \$9,000 beginning on January 1,
5 2023, and in excess of \$10,000 beginning on January 1,
6 2028, paid in a quarterly reporting period by one
7 employer;

8 (b) any payment on account of sickness or
9 accident disability, or medical or hospitalization
10 expenses made by an employer to or on behalf of an
11 employee;

12 (c) any payment made to or on behalf of an
13 employee or to the employee's beneficiary from a trust
14 or annuity;

15 (d) remuneration paid in any medium other than
16 cash to an employee for service not in the course of the
17 employer's trade or business or for domestic service in
18 a private home of an employer;

19 (e) remuneration paid for casual or intermittent
20 labor not performed in the course of the employer's
21 trade or business when such employment does not exceed
22 employment in more than one week in each calendar month
23 of each quarterly reporting period; and

24 (f) remuneration from family employment subject
25 to the provisions of this subtitle."

1 Section 2. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

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Dated: 10/06/11 Introduced by: /s/ Yosiwo P. George
Yosiwo P. George