

SEVENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST SPECIAL SESSION, 1991

CONGRESSIONAL BILL NO. 7-81, C.D.1, C.D.2,

PRESIDENTIAL COMM. NO. 7149
FSM CONGRESS

C.D.3, C.D.4

AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, regarding taxation, as amended by Public Laws Nos. 5-65, 5-81 and 5-84, by amending sections 112, 113, 124 and 805, and repealing section 806, for the purpose of deleting certain obsolete references to the Trust Territory of the Pacific Islands, for the purpose of eliminating apportionment of salaries or wages, for the purpose of deleting an obsolete transitional section, 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 is hereby amended to read as follows:
3 "Section 112. Definitions. Wherever used in this chapter,
4 unless the subject matter, context, or sense otherwise
5 requires.
6 (1) 'Business' means any profession, trade,
7 manufacture, or other undertaking carried on for pecuniary
8 profit and includes all activities whether personal,
9 professional, or incorporated, carried on within the
10 Federated States of Micronesia for economic benefit either
11 direct or indirect, and excludes casual sales, as
12 determined by the Secretary; however, one who qualifies
13 as an employee under this section shall not be considered
14 as a business. Copra production by unincorporated copra
15 producers collectively or severally shall not be included
16 as a business under this definition.
17 (2) 'Commercial aircraft' means any aircraft capable
18 of and intended for use in commercial aviation.
19 (3) 'Employee' means any individual who, under the
20 usual common law rules applicable in determining the
21 employer-employee relationship, has the status of an
22 employee.

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

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

24 (a) refunds and rebates;

25 (b) moneys held in a fiduciary capacity;

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 payments
5 in any quarter shall equal the rental payments made to
6 the buyer by the seller of such aircraft for its rental
7 by seller;

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

20 (g) gross revenue received by an international
21 organization, foreign contractor, or other foreign entity
22 paid from foreign aid proceeds donated to the Federated
23 States of Micronesia pursuant to a foreign aid agreement
24 entered into by the Federated States of Micronesia, the
25 terms of which require that such gross revenue shall not

1 be subject to taxation by the Government of the Federated
2 States of Micronesia.

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

9 (7) 'Month' means calendar month.

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

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

20 (10) 'Secretary' means the Secretary of the Department
21 of Finance.

22 (11) 'Wages' or 'Salaries' means and includes
23 commissions, fees, compensation, emoluments, bonuses, and
24 every and all other kinds of compensation paid for,
25 credited, or attributable to personal services performed

1 by an individual, which services have been performed by
2 such person as an employee. Wages and salaries shall
3 not include the following:

4 (a) wages and salaries received from the United
5 States by members of the Military or Naval Forces of the
6 United States or the Armed Forces of the United States;

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

10 (c) rental value of a home furnished to any
11 employee or a reasonable rental allowance paid to any
12 employee (to the extent such allowance is used by the
13 employee to rent or provide a home);

14 (d) any payment on account of sickness or
15 accident disability, or any payment of medical or
16 hospitalization expenses, made by an employer to or on
17 behalf of an employee; provided, however, that normal
18 wages or salaries paid to an employee for a period of
19 time during which he is excused from work because of
20 sickness shall not be excluded from wages and salaries
21 under this subsection;

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

24 (f) remuneration paid in any medium other than
25 cash to an employee for service not in the ordinary course

1 of the employer's trade or business or for domestic service
2 in a private home of an employer;

3 (g) remuneration paid for casual or intermittent
4 labor not performed in the ordinary course of the employer's
5 trade or business and for not more than one week in each
6 calendar month;

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

11 (i) wages and salaries received by a minister
12 of the gospel or clergyman from a religious group or
13 organization;

14 (j) wages and salaries received by an
15 employee for services performed or rendered in the
16 capacity of a domestic or household employee for a
17 private individual or family; or

18 (k) wages and salaries received by an employee,
19 who is not a citizen of the Federated States of Micronesia,
20 while employed by an international organization, foreign
21 contractor, or other foreign entity performing services or
22 otherwise conducting business in furtherance of a foreign
23 aid agreement entered into by the Federated States of
24 Micronesia, the terms of which require that such wages and
25 salaries shall not be subject to taxation by the Government

1 of the Federated States of Micronesia.

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

3 Section 2. Section 113 of title 54 of the Code of the Federated
4 States of Micronesia is hereby amended to read as follows:

5 "Section 113. Taxes collected declared realization of
6 the Federated States of Micronesia. The taxes levied,
7 assessed, and collected under and pursuant to this chapter
8 shall be paid to the treasurer of the Federated States of
9 Micronesia and become part of the General Fund of the
10 Federated States of Micronesia as local revenue realization
11 available for appropriation by the Congress of the
12 Federated States of Micronesia."

13 Section 3. Section 124 of title 54 of the Code of the Federated
14 States of Micronesia is hereby amended to read as follows:

15 "Section 124. Source of wages. If an employee is credited
16 or paid salaries or wages derived from, or attributable to,
17 personal services performed or rendered both within and
18 without the Federated States of Micronesia, then the whole
19 of the salaries or wages shall be presumed to have been
20 earned within the Federated States of Micronesia."

21 Section 4. Section 805 of title 54 of the Code of the Federated
22 States of Micronesia is hereby amended to read as follows:

23 "Section 805. Distribution of revenues.

24 (1) The treasurer of the Federated States of
25 Micronesia shall pay eighty percent of the net taxes

1 collected pursuant to section 201(9) of this title, and
2 fifty percent of all other net taxes collected pursuant to
3 sections 121, 141, and 201 of this title, into the treasury
4 of the State government to which the taxes are attributable
5 for appropriation by the State legislature.

6 (2) 'Net taxes' as used in subsection (1) of this
7 section means gross collections of taxes, penalties,
8 interest, or other related charges less refunds and less
9 the cost of administration.

10 (3) 'Cost of administration' as used in subsection
11 (2) of this section means the cost determined to be
12 allocatable to each State by the Congress of the Federated
13 States of Micronesia when making appropriations for the
14 operating expenses of the Revenue Division.

15 (4) The revenue office in each State may administer
16 the taxes of the State in which located, but those duties
17 shall not interfere with the administration of taxes imposed
18 by the laws of the Federated States of Micronesia. All
19 costs in excess of those funded by appropriations of the
20 Congress of the Federated States of Micronesia required for
21 the administration of State taxes shall be borne entirely
22 by the State."

23 Section 5. Section 806 of title 54 of the Code of the Federated
24 States of Micronesia is hereby repealed in its entirety.

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C.D.3, C.D.4

PRESIDENTIAL COMM. NO. 7-149
FSM CONGRESS

1 Section 6. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its becoming
3 law without such approval.

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December 26, 1991

Bailey Olter
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President
Federated States of Micronesia

