

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. 7-
3 41, 10-93, 10-149, 12-18 and 14-40 is hereby further amended to
4 read as 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

1 definition.

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

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

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

17 (5) 'Gross revenue' means the gross receipts, cash or
18 accrued, of the taxpayer received as compensation for
19 personal services and the gross receipts of the taxpayer
20 derived from trade, business, commerce, or sales and the
21 value proceeding or accruing from the sale of tangible
22 personal property, or services, or both, and all
23 receipts, actual or accrued by reason of the capital of
24 the business engaged in, including interest, rentals,
25 royalties, fees, or other emoluments however designated

1 and without any deductions on account of the cost of
2 property sold, the cost of materials used, taxes,
3 royalties, or interest paid or any other expenses
4 whatsoever. Gross revenue shall not include the
5 following:

6 (a) refunds and rebates;

7 (b) moneys held in a fiduciary capacity;

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

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

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

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

1 included in 'gross revenue';

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

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

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

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

21 (k) proceeds of sales of bait fish to foreign or
22 domestic fishing vessels.

23 (l) proceeds from (i) recycling waste paper,
24 plastic, aluminum, tin or other scrap metal, or glass so
25 that such materials may be re-used, (ii) removing such

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

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) 'Taxable Gross Revenues' shall mean, for any tax
16 period, the figure calculated by deducting from the
17 Gross Revenues for the period, the following expenses of
18 the business for that period:

19 (a) wages, salaries and benefits reasonably paid
20 by the taxpayer to or on behalf of employees of the
21 business for personal services relating to producing the
22 Gross Revenues, as such wages and salaries are reported
23 pursuant to subchapter III of chapter 1 of title 54 of
24 the Code of the Federated States of Micronesia; and

25 (b) Social Security contributions by the business

1 in respect of its employees pursuant to section 902 of
2 title 53 of the Code of the Federated States of
3 Micronesia.

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

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

13 (11) 'Rental payments' means any payments made in
14 exchange for use or rental, and includes interest,
15 carrying charges, or other charges associated with use
16 or rental.

17 (12) 'Secretary' means the Secretary of the
18 Department of Finance and Administration.

19 (13) 'Wages' or 'Salaries' means and includes
20 commissions, fees, compensation, emoluments, bonuses,
21 and every and all other kinds of compensation paid for,
22 or credited or attributable to, personal services
23 performed by an individual, which services have been
24 performed by such person as an employee. Wages and
25 salaries shall not include the following:

1 (a) any payment received from the United States
2 by members of the Military or Naval Forces of the United
3 States or the Armed Forces of the United States;

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

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

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

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

21 (f) remuneration paid in any medium other than
22 cash to an employee for service not in the ordinary
23 course of the employer's trade or business;

24 (g) remuneration paid for casual or intermittent
25 labor not performed in the ordinary course of the

1 employer's trade or business and for not more than one
2 week in each calendar month;

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

7 (i) any payment received by a minister of the
8 gospel or clergyman from a religious group or
9 organization;

10 (j) any payment received by an employee for
11 services performed as a domestic or household employee
12 for a private individual or family;

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

23 (l) the foreign service premium authorized by section
24 163 of title 52 of the Code of the Federated States of
25 Micronesia.

1 (14) 'Year' means calendar year."

2 Section 2. Section 141 of title 54 of the Code of the
3 Federated States of Micronesia, as amended by Public Law No. 5-84,
4 is hereby amended to read as follows:

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

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

11 (2) There shall be assessed, levied, collected, and
12 paid a tax of three percent per year upon that portion
13 of the amount of taxable gross revenues earned by every
14 business subject to the provisions of this chapter which
15 is in excess of \$10,000 per year.

16 (3) Businesses which earn gross revenues of not more
17 than \$2,000 per year are exempt from taxation under this
18 section. The deduction shall be claimed by the business
19 by filing for a refund under the provisions of sections
20 122 and 123 of this chapter.

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

25 Section 3. Section 143 of title 54 of the Code of the
26 Federated States of Micronesia is hereby amended to read as

1 follows:

2 "Section 143. Returns and payment of tax on taxable
3 gross revenue.

4 (1) Every business, on or before the last day of the
5 month following the close of each quarter, to wit: on or
6 before April 30, July 31, October 31, January 31, shall
7 pay, based on its taxable gross revenue of the preceding
8 quarter, the amount of tax imposed by this chapter to
9 the National revenue officer in the State in which the
10 business has its principal place of business in the
11 Federated States of Micronesia, or to the Secretary.

12 (2) Each business shall, on or before the date
13 provided for payment of tax under this section, make a
14 full, true, and correct return showing all gross revenue
15 received, accrued, or earned by the business, the
16 taxable gross revenues of the business, the expenses for
17 wages and salaries and social security contributions
18 claimed by the business in calculating its taxable gross
19 revenue and the amounts deducted and set aside on
20 account of the taxable gross revenues during the
21 preceding quarter.

22 (3) The return shall be filed at the place in this
23 section prescribed for payment of the tax and shall
24 include such other information as shall be required or
25 prescribed by the Secretary. The Secretary, for good
26 cause, may extend the time for making payments and

1 returns, but not beyond the last day of the first month
2 succeeding the regular due date thereof.

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

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10 _____, 2006

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13 **OVERRIDE 11/08/06**

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Joseph J. Urusemal
President
Federated States of Micronesia

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