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A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by further amending section 112 thereof, as amended by Public Laws Nos. 7-41, 10-93, and 10-149, to allow deduction of certain expenses from gross revenue before computation 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. 7-41,
3 10-93, and 10-149, 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) 'Business-related utilities expense' means an
20 expenditure of funds, paid to a public utility, for
21 power, water, or waste-water services necessary to and
22 directly related to the conduct of the business.

23 ([2]3) 'Commercial aircraft' means any aircraft capable
24 of and intended for use in commercial aviation.

25 ([3]4) 'Employee' means any individual who, under the

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1 usual common law rules applicable in determining the
2 employer-employee relationship, has the status of an
3 employee.

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

13 ([5]6) 'Gross revenue' means:

14 (a) the gross receipts, cash or accrued, of the
15 taxpayer received as compensation for personal services
16 not in the form of salaries or wages as defined in
17 subsection ([11] 12) of this section[7]; and

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

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1 cost of materials used, [~~labor cost,~~] taxes, royalties,
2 or interest paid or any other expenses whatsoever other
3 than the following expenses which may be deducted to the
4 extent substantiated through reliable documentation:

5 (i) wages and salaries which have been paid
6 by the taxpayer to or on behalf of citizen employees as
7 reflected in reports filed pursuant to subchapter III of
8 chapter 1 of title 54 of the Code of the Federated States
9 of Micronesia;

10 (ii) Federated States of Micronesia Social
11 Security contributions which have been paid by the
12 taxpayer for the benefit of his or her citizen employees
13 pursuant to section 902 of title 53; and

14 (iii) business-related utilities expenses.

15 (c) Gross revenue shall not include the following:

16 [~~a~~](i) refunds and rebates;

17 [~~b~~](ii) moneys held in a fiduciary capacity;

18 [~~e~~](iii) income in the form of wages and salaries
19 which are taxed under other provisions of this chapter;

20 [~~d~~](iv) sale payments received for the sale of a
21 commercial aircraft, to the extent that such sale
22 payments in any quarter shall equal the rental payments
23 made to the buyer by the seller of such aircraft for its
24 rental by the seller;

25 [~~e~~](v) rental payments received for the rental

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1 of a commercial aircraft, to the extent that such rental
2 payments in any quarter shall equal the sale payments
3 made to the lessor by the lessee of such aircraft for its
4 purchase by the lessor;

5 [~~f~~](vi) cash discounts allowed and taken on
6 sales, the proceeds of sale of goods, wares, or
7 merchandise returned by customers when the sale price is
8 refunded either in cash or by credit; or the sale price
9 of any article accepted as part of payment of any new
10 article sold, if the full sale price of a new article is
11 included in 'gross revenue';

12 [~~g~~](vii) gross revenue received by an
13 international organization, foreign contractor, or other
14 foreign entity paid from foreign aid proceeds donated to
15 the Federated States of Micronesia pursuant to a foreign
16 aid agreement entered into by the Federated States of
17 Micronesia, the terms of which require that such gross
18 revenue shall not be subject to taxation by the
19 Government of the Federated States of Micronesia;

20 [~~h~~](viii) gross revenue derived solely from the
21 export sales of tangible personal property produced or
22 manufactured in the Federated States of Micronesia and
23 delivered to a buyer outside the Federated States of
24 Micronesia; or

25 [~~i~~](ix) gross revenue derived solely from

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1 industrial processing of goods in the Federated States of
2 Micronesia which are subsequently exported from, and not
3 used in, the Federated States of Micronesia.

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

10 ([7]8) 'Month' means calendar month.

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

17 ([9]10) 'Rental payments' means any payments made in
18 exchange for use or rental, and includes interest,
19 carrying charges, or other charges associated with use or
20 rental.

21 ([10]11) 'Secretary' means the Secretary of the
22 Department of Finance.

23 ([11]12) 'Wages' or 'Salaries' means and includes
24 commissions, fees, compensation, emoluments, bonuses, and
25 every and all other kinds of compensation paid for, or

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

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

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

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

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

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

25 (f) remuneration paid in any medium other than

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- 1 cash to an employee for service not in the ordinary
2 course of the employer's trade or business or for
3 domestic service in a private home of an employer;
- 4 (g) remuneration paid for casual or intermittent
5 labor not performed in the ordinary course of the
6 employer's trade or business and for not more than one
7 week in each calendar month;
- 8 (h) any payment in the form of a scholarship,
9 fellowship, or stipend made to any employee while he is a
10 full-time, bona fide student at an educational
11 institution;
- 12 (i) wages and salaries received by a minister of
13 the gospel or clergyman from a religious group or
14 organization;
- 15 (j) wages and salaries received by an employee for
16 services performed or rendered in the capacity of a
17 domestic or household employee for a private individual
18 or family;
- 19 (k) wages and salaries received by an employee,
20 who is not a citizen of the Federated States of
21 Micronesia, while employed by an international
22 organization, foreign contractor, or other foreign entity
23 performing services or otherwise conducting business in
24 furtherance of a foreign aid agreement entered into by
25 the Federated States of Micronesia, the terms of which

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1 require that such wages and salaries shall not be subject
2 to taxation by the Government of the Federated States of
3 Micronesia; or

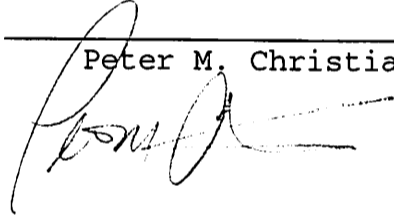
4 (1) the foreign service premium authorized by
5 section 163 of title 52 of the Code of the Federated
6 States of Micronesia.

7 (~~12~~13) 'Year' means calendar year."

8 Section 2. Effective date. This act shall take effect 180
9 days following its becoming law.

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

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14 Date: May 17, 1998

Introduced by: Peter M. Christian


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