

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, as amended by Public Laws Nos. 7-41, 10-93 and 10-149, to exempt from gross revenue tax, the sale of fish by foreign or domestic fishing vessels to processing facilities in the FSM and the sale of bait fish to foreign or domestic fishing vessels, to make numerous technical corrections, 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 Federated
2 States of Micronesia, as amended by Public Laws Nos. 7-41, 10-93 and
3 10-149, is hereby further amended to read as follows:

4 "Section 112. Definitions. Wherever used in this chapter,
5 unless the subject matter, context, or sense otherwise
6 requires:

7 (1) 'Business' means any profession, trade, manufacture, or
8 other undertaking carried on for pecuniary profit and
9 includes all activities whether personal, professional, or
10 incorporated, carried on within the Federated States of
11 Micronesia for economic benefit either direct or indirect,
12 and excludes casual sales, as determined by the Secretary;
13 however, one who qualifies as an employee under this section
14 shall not be considered as a business. Copra production by
15 unincorporated copra producers collectively or severally
16 shall not be included as a business under this definition.

17 (2) 'Commercial aircraft' means any aircraft capable of and

1 intended for use in commercial aviation.

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

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

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

1 Gross revenue shall not include the following:

2 (a) refunds and rebates;

3 (b) moneys held in a fiduciary capacity;

4 (c) [~~income in the form of~~] wages and salaries,

5 received by the taxpayer, which are taxed under other

6 provisions of this chapter;

7 (d) sale payments received for the sale of a

8 commercial aircraft, to the extent that such sale payments in

9 any quarter shall equal the rental payments made to the

10 buyer/lessor by the seller/lessee of such aircraft for its

11 rental by the seller/lessee;

12 (e) rental payments received for the rental of a

13 commercial aircraft, to the extent that such rental

14 payments in any quarter shall equal the sale payments made to

15 the [~~lessor~~] seller/lessee by the [~~lessee~~] buyer/lessor of

16 such aircraft for its purchase by the buyer/lessor;

17 (f) cash discounts allowed and taken on sales, the

18 proceeds of sale of goods, wares, or merchandise returned by

19 customers when the sale price is refunded either in cash or

20 by credit; or the sale price of any article accepted as part

21 of payment of any new article sold, if the full sale price of

22 a new article is included in 'gross revenue';

23 (g) [~~gross revenue~~] funds received by an international

24 organization, foreign contractor, or other foreign entity

25 paid from foreign aid proceeds donated to the Federated

1 States of Micronesia pursuant to a foreign aid agreement
2 entered into by the Federated States of Micronesia, the terms
3 of which require that such gross revenue shall not be subject
4 to taxation by the Government of the Federated States of
5 Micronesia;

6 (h) [~~gross revenue derived solely from the~~] proceeds
7 of export sales of tangible personal property produced or
8 manufactured in the Federated States of Micronesia and
9 delivered to a buyer outside the Federated States of
10 Micronesia; [~~or~~]

11 (i) [~~gross revenue derived solely from industrial~~
12 ~~processing of goods~~] proceeds of sales of products of a
13 processing facility in the Federated States of Micronesia
14 which are subsequently exported from, and not used in, the
15 Federated States of Micronesia[~~-~~];

16 (j) proceeds of sales of fish by foreign or domestic
17 fishing vessels to processing facilities within the Federated
18 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' and
22 'Armed Forces of the United States' means all regular and
23 reserve components of the uniformed services which are
24 subject to the jurisdiction of the Secretary of the Army,
25 Navy, or Air Force, and also includes the Coast Guard.

1 (7) 'Month' means calendar month.

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

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

11 (~~9~~10) 'Rental payments' means any payments made in exchange
12 for use or rental, and includes interest, carrying charges,
13 or other charges associated with use or rental.

14 (~~10~~11) 'Secretary' means the Secretary of the Department of
15 Finance and Administration.

16 (~~11~~12) 'Wages' or 'Salaries' means and includes commissions,
17 fees, compensation, emoluments, bonuses, and every and all
18 other kinds of compensation paid for, or credited or
19 attributable to, personal services performed by an
20 individual, which services have been performed by such person
21 as an employee. Wages and salaries shall not include the
22 following:

23 (a) [~~wages and salaries~~] any payment received from the
24 United States by members of the Military or Naval Forces of
25 the United States or the Armed Forces of the

1 United States;

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

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

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

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

18 (f) remuneration paid in any medium other than cash to
19 an employee for service not in the ordinary course of the
20 employer's trade or business [~~or for domestic service in a~~
21 ~~private home of an employer~~];

22 (g) remuneration paid for casual or intermittent labor
23 not performed in the ordinary course of the employer's trade
24 or business and for not more than one
25 week in each calendar month;

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

4 (i) [~~wages and salaries~~] any payment received by a
5 minister of the gospel or clergyman from a religious group or
6 organization;

7 (j) [~~wages and salaries~~] any payment received by an
8 employee for services performed [~~or rendered in the capacity~~
9 of] as a domestic or household employee for a private
10 individual or family;

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

20 (l) the foreign service premium authorized by section
21 163 of title 52 of the Code of the Federated States of
22 Micronesia.

23 (~~12~~13)'Year' means calendar year."

24 Section 2. This act shall become law upon approval by the
25 President of the Federated States of Micronesia or upon its becoming

1 law without such approval.

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4 Date: _____ Introduced by: _____

Peter M. Christian

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