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SIXTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST REGULAR SESSION, 1989

C. B. No. 6-50

A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-65, 5-81 and 5-84, by amending section 112 for the purpose of changing the definition of gross revenue, 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 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 an individual who, under the
20 usual common law rules applicable in determining the
21 employer-employee relationship, has the status of an
22 employee.

23 (4) 'Employer' includes any individual, corporation,
24 association, joint stock company, bank, insurance company,
25 credit union, cooperative, or other equity or group

1 employing any person, and also includes the Trust
2 Territory, Federated States of Micronesia, State and local
3 governments, and their agencies, charged with the
4 disbursement of public moneys as salaries or wages.
5 'Employer' also includes the United States Government and
6 instrumentalities thereof.

7 (5) 'Gross revenue' means:

8 (a) the gross receipts, cash or accrued, of the
9 taxpayer received as compensation for personal services not
10 in the form of salaries or wages as defined in subsection
11 (11) of this section; and

12 (b) the gross receipts of the taxpayer derived
13 from trade, business, commerce, or sales and the value
14 proceeding or accruing from the sale of tangible personal
15 property, or services, or both, and all receipts, actual or
16 accrued by reason of the capital of the business engaged
17 in, including interest, rentals, royalties, fees, or other
18 emoluments however designated and without any deductions on
19 account of the cost of property sold, the cost of materials
20 used, ~~labor cost~~, taxes, royalties, or interest paid or any
21 other expenses whatsoever other than the following expenses
22 which may be deducted to the extent substantiated through
23 reliable documentation: labor costs; FSM Social Security
24 contributions which have been paid by the taxpayer for the
25 benefit of his employees pursuant to title 54 of the Code

1 of the Federated States of Micronesia; water and power costs
2 incurred in connection with generating revenue; and communi-
3 cations expenses incurred in connection with generating
4 revenue; PROVIDED, however, that ~~the~~ gross revenue shall not
5 include the following:

6 (a*i*) refunds and rebates;

7 (b*ii*) moneys held in a fiduciary capacity;

8 (c*iii*) income in the form of wages and

9 salaries which are taxed under other provisions of this
10 chapter;

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

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

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

1 sold, if the full sale price of a new article is included
2 in 'gross revenue'; or

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

11 (6) 'Military or Naval Forces of the United States'
12 and 'Armed Forces of the United States' means all regular
13 and reserve components of the uniformed services which are
14 subject to the jurisdiction of the Secretary of the Army,
15 Navy, or Air Force, and also includes the Coast Guard.

16 (7) 'Month' means calendar month.

17 (8) 'Purchase payments' means payments on the actual
18 selling price, including any interest, carrying charges, or
19 other charges associated with a sale. As used herein, the
20 word 'sale' implies a transfer of ownership of that which
21 is sold, in exchange for the purchase payments or promise
22 thereof.

23 (9) 'Rental payments' means any payments made in
24 exchange for use or rental, and includes interest, carrying
25 charges, or other charges associated with use or rental.

1 (10) 'Secretary' means the Secretary of the Department
2 of Finance.

3 (11) 'Wages' or 'Salaries' means and includes
4 commissions, fees, compensation, emoluments, bonuses, and
5 every and all other kinds of compensation paid for,
6 credited, or attributable to personal services performed by
7 an individual, which services have been performed by
8 such person as an employee. Wages and salaries shall not
9 include the following:

10 (a) wages and salaries received from the United
11 States by members of the Military or Naval Forces of the
12 United States or the Armed Forces of the United States;

13 (b) reasonable per diem and travel allowances to the
14 extent that they do not exceed any comparable Trust
15 Territory Government rates;

16 (c) rental value of a home furnished to any
17 employee or a reasonable rental allowance paid to any
18 employee (to the extent such allowance is used by the
19 employee to rent or provide a home);

20 (d) any payment on account of sickness or
21 accident disability, or any payment of medical or hospitali-
22 zation expenses, made by an employer to or on behalf of an
23 employee; provided, however, that normal wages or salaries
24 paid to an employee for a period of time during which he
25 is excused from work because of sickness shall not be

1 excluded from wages and salaries under this subsection;

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

4 (f) remuneration paid in any medium other than
5 cash to an employee for service not in the ordinary course
6 of the employer's trade or business or for domestic service
7 in a private home of an employer;

8 (g) remuneration paid for casual or intermittent
9 labor not performed in the ordinary course of the
10 employer's trade or business and for not more than one week
11 in each calendar month;

12 (h) any payment in the form of a scholarship,
13 fellowship, or stipend made to any employee while he is a
14 full-time, bone fide student at an educational institution
15 within the Trust Territory;

16 (i) wages and salaries received by a minister
17 of the gospel or clergyman from a religious group or
18 organization;

19 (j) wages and salaries received by an employee
20 for services performed or rendered in the capacity of a
21 domestic or household employee for a private individual or
22 family; or

23 (k) wages and salaries received by an employee,
24 who is not a citizen of the Federated States of Micronesia,
25 while employed by an international organization, foreign

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1 contractor, or other foreign entity performing services
2 or otherwise conducting business in furtherance of a
3 foreign aid agreement entered into by the Federated States
4 of Micronesia, the terms of which require that such wages
5 and salaries shall not be subject to taxation by the
6 Government of the Federated States of Micronesia.

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

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

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12 Date: 5/31/89

Introduced by: 
Peter M. Christian

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