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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, as amended by Public Law No. 7-41, for the purpose of including in the definition of "business" certain entities owned and/or operated by religious and/or nonprofit organizations, 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 Law No. 7-41, is
3 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,
8 manufacture, or other undertaking carried on for pecuniary
9 profit and includes all activities whether personal,
10 professional, or incorporated, carried on within the
11 Federated States of Micronesia for economic benefit either
12 direct or indirect, and excludes casual sales, as
13 determined by the Secretary; however, one who qualifies
14 as an employee under this section shall not be considered
15 as a business. An entity owned and/or operated by a
16 religious and/or non-profit organization shall be included
17 as a business under this definition if the entity competes
18 against similar businesses which are required to pay tax,
19 or, profits earned by the entity are not strictly and
20 entirely used for charitable, nonprofit, or church-related
21 activities. Copra production by unincorporated copra
22 producers collectively or severally shall not be included
23 as a business under this definition.

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

1 (3) 'Employee' means any individual who, under the
2 usual common law rules applicable in determining the
3 employer-employee relationship, has the status of an
4 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
8 employing any person, and also includes the Federated
9 States of Micronesia, State and local governments, and
10 their agencies, charged with the disbursement of public
11 moneys as salaries or wages. 'Employer' also includes the
12 United States Government 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
19 from the sale of tangible personal property, or services,
20 or both, and all receipts, actual or accrued by reason
21 of the capital of the business engaged in, including
22 interest, rentals, royalties, fees, or other emoluments
23 however designated and without any deductions on account of
24 the cost of property sold, the cost of materials used,
25 labor cost, taxes, royalties, or interest paid or any other

1 expenses whatsoever. Gross revenue shall not include the
2 following:

3 (a) refunds and rebates;

4 (b) moneys held in a fiduciary capacity;

5 (c) income in the form of wages and salaries
6 which are taxed under other provisions of this chapter;

7 (d) sale payments received for the sale of a
8 commercial aircraft, to the extent that such sale payments
9 in any quarter shall equal the rental payments made to
10 the buyer by the seller of such aircraft for its rental
11 by seller;

12 (e) rental payments received for the rental
13 of a commercial aircraft, to the extent that such rental
14 payments in any quarter shall equal the sale payments made
15 to the lessor by lessee of such aircraft for its purchase
16 by the lessor;

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

24 (g) gross revenue received by an international
25 organization, foreign contractor, or other foreign entity

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

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

13 (7) 'Month' means calendar month.

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

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

24 (10) 'Secretary' means the Secretary of the Department
25 of Finance.

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

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

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

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

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

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

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

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

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

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

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

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

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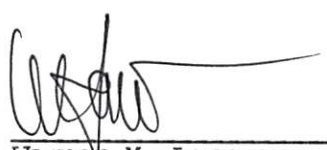
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1 otherwise conducting business in furtherance of a foreign
2 aid agreement entered into by the Federated States of
3 Micronesia, the terms of which require that such wages and
4 salaries shall not be subject to taxation by the Government
5 of the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

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

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

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11 Date: 10/22/93

Introduced by: 
Wagner M. Lawrence

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