

A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, regarding taxation, by further amending sections 112, 113, and 805, as amended by Public Law No. 7-41, and by amending sections 143 and 803, to permit the States to collect, retain and enforce 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 Federated States of
2 Micronesia, as amended by Public Law No. 7-41, is hereby further amended to
3 read as follows:

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

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

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

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

20 (4) 'Employer' includes any individual, corporation,
21 association, joint stock company, bank, insurance company, credit
22 union, cooperative, or other equity or group employing any person,
23 and also includes the Federated States of Micronesia, State and
24 local governments, and their agencies, charged with the
25 disbursement of public moneys as salaries or wages. 'Employer' also

1 includes the United States Government and instrumentalities thereof.

2 (5) 'Gross revenue' means the gross receipts, cash or
3 accrued, of the taxpayer received as compensation for personal
4 services not in the form of salaries or wages as defined in
5 subsection (11) of this section, and the gross receipts of the
6 taxpayer derived from trade, business, commerce, or sales and the
7 value proceeding or accruing from the sale of tangible personal
8 property, or services, or both, and all receipts, actual or accrued by
9 reason of the capital of the business engaged in, including interest,
10 rentals, royalties, fees, or other emoluments however designated
11 and without any deductions on account of the cost of property sold,
12 the cost of materials used, labor cost, taxes, royalties, or interest
13 paid or any other expenses whatsoever. Gross revenue shall not
14 include the following:

15 (a) refunds and rebates;

16 (b) moneys held in a fiduciary capacity;

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

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

23 (e) rental payments received for the rental of a
24 commercial aircraft, to the extent that such rental payments in any
25 quarter shall equal the sale payments made to the lessor by lessee

1 of such aircraft for its purchase by the lessor;

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

8 (g) gross revenue received by an international
9 organization, foreign contractor, or other foreign entity paid from
10 foreign aid proceeds donated to the Federated States of Micronesia
11 pursuant to a foreign aid agreement entered into by the Federated
12 States of Micronesia, the terms of which require that such gross
13 revenue shall not be subject to taxation by the Government of the
14 Federated States of Micronesia.

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

20 (7) 'Month' means calendar month.

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

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

4 (10) 'Secretary' means the Secretary of the Department of
5 Finance, except in reference to the gross revenue tax. With respect
6 to the gross revenue tax, 'Secretary' means the head of the State
7 government office charged with enforcing and collecting the gross
8 revenue tax in that State.

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

15 (a) wages and salaries received from the United States
16 by members of the Military or Naval Forces of the United States or
17 the Armed Forces of the United States;

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

21 (c) rental value of a home furnished to any employee or
22 a reasonable rental allowance paid to any employee (to the extent
23 such allowance is used by the employee to rent or provide a home);

24 (d) any payment on account of sickness or accident
25 disability, or any payment of medical or hospitalization expenses,

1 made by an employer to or on behalf of an employee; provided,
2 however, that normal wages or salaries paid to an employee for a
3 period of time during which he is excused from work because of
4 sickness shall not be excluded from wages and salaries under this
5 subsection;

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

8 (f) remuneration paid in any medium other than cash to
9 an employee for services not in the ordinary course of the
10 employer's trade or business or for domestic service in a private
11 home of an employer;

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

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

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

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

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

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

(12) 'Year' means calendar year."

Section 2. Section 113 of title 54 of the Code of the Federated States of Micronesia, as amended by Public Law No. 7-41, is hereby further amended to read as follows:

"Section 113. Taxes collected declared ~~realization of the Federated States of Micronesia~~ local revenue. The taxes, except the gross revenue tax, levied, assessed, and collected under and pursuant to this chapter shall be paid to the treasurer of the Federated States of Micronesia and become part of the General Fund ~~of the Federated States of Micronesia~~ as local revenue ~~realization available for appropriation by the Congress of the Federated States of Micronesia.~~ All gross revenue taxes levied, assessed, and collected under and pursuant to this chapter shall be paid to the treasurer of the State in which the tax is levied and assessed."

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

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

(1) Every business, on or before the last day of the month following the close of each quarter, to wit: on or before April 30, July 31, October 31, January 31, shall pay, based on its gross revenue of

the preceding quarter, the amount of tax imposed by this chapter to the ~~National~~ State revenue officer in the State in which the business has its principal place of business in the Federated States of Micronesia, or to the Secretary of the State agency authorized to levy, assess and collect the gross revenue tax.

(2) Each business shall, on or before the date provided for payment of tax under this section, make a full, true, and correct return showing all such gross revenue received, accrued, or earned, and the amounts deducted and set aside on account thereof during the preceding quarter.

(3) The return shall be filed at the place in this section prescribed for payment of the tax and shall include such other information as shall be required or prescribed by the Secretary. The Secretary, for good cause, may extend the time for making payments and returns, but not beyond the last day of the first month succeeding the regular due date thereof."

Section 4. Section 803 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 803. Rules and regulations - Promulgation by Secretary of Finance.

(1) The Secretary ~~of Finance~~, with the approval of the President of the Federated States of Micronesia, shall prescribe such rules and regulations as are necessary to collect all taxes, fees, and charges levied or imposed under this title and all such taxes, fees, and charges shall be deposited in the General Fund of the Federated

1 States of Micronesia for appropriation by the Congress of the
2 Federated States of Micronesia, except for the gross revenue tax
3 which shall be deposited into the General Fund of the State enforcing
4 the tax.

5 (2) Such rules and regulations shall wherever practicable
6 require payment in full of all taxes, fees, and charges immediately
7 upon assessment, and in the case of import taxes, no later than
8 fifteen days after the departure of the vessel or ~~plans~~ planes on
9 which the products subject to import taxes arrived and before any
10 merchandise is released by the carrier or his agent to the importer
11 and, in the case of export taxes, before any merchandise is loaded
12 on any vessel or aircraft."

13 Section 5. Section 805 of title 54 of the Code of the Federated States of
14 Micronesia, as amended by Public Law No. 7-41, is hereby further amended to
15 read as follows:

16 "Section 805. Distribution of revenues.

17 (1) The ~~treasurer~~ Secretary of the Department of Finance
18 of the Federated States of Micronesia shall pay one hundred percent
19 of the taxes collected pursuant to section 141 of this title, eighty
20 percent of the net taxes collected pursuant to section 201(9) of
21 this title, and fifty percent of all other net taxes collected pursuant
22 to sections 121, ~~141~~ and 201 of this title, into the treasury of the
23 State government to which the taxes are attributable for
24 appropriation by the State legislature.

25 (2) 'Net Taxes' as used in subsection (1) of this section

1 means gross collections of taxes, penalties, interest, or other
2 related charges less refunds and less the cost of administration.

3 (3) 'Cost of administration' as used in subsection (2) of
4 this section means the cost determined to be ~~allocatable~~ allocated
5 to each State by the Congress of the Federated States of
6 Micronesia when making appropriations for the operating expenses
7 of the Revenue Division.

8 (4) The revenue office in each State may administer the
9 taxes of the State in which located, but those duties shall not
10 interfere with the administration of taxes imposed by the laws of the
11 Federated States of Micronesia. All costs in excess of those funded
12 by appropriations of the Congress of the Federated States of
13 Micronesia required for the administration of State taxes shall be
14 borne entirely by the State."

15 Section 6. This act shall become law upon approval by the President of
16 the Federated States of Micronesia or upon its becoming law without such
17 approval.

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Date: 6/2/95

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Introduced by: 

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