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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 exempting soaps and other soap products produced, processed and manufactured in the Federated States of Micronesia from 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
2 of Micronesia, as amended by Public Law No. 7-41, is hereby further amended
3 to read as follows:

4 "Section 112. Definitions. Wherever used in this chapter, unless
5 the 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
8 all activities whether personal, professional, or incorporated,
9 carried on within the Federated States of Micronesia for economic
10 benefit either direct or indirect, and excludes casual sales, as
11 determined by the Secretary; however, one who qualifies as an
12 employee under this section shall not be considered as a business.
13 Copra production by unincorporated copra producers collectively
14 or severally shall not be included as a business under this
15 definition.

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

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

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

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1 disbursement of public moneys as salaries or wages. 'Employer' also
2 includes the United States Government and instrumentalities thereof

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

15 whatsoever. Gross revenue shall not include the following:

- 16 (a) refunds and rebates;
- 17 (b) moneys held in a fiduciary capacity;
- 18 (c) income in the form of wages and salaries which
19 are taxed under other provisions of this chapter;
- 20 (d) sale payments received for the sale of a
21 commercial aircraft, to the extent that such sale payments in any
22 quarter shall equal the rental payments made to the buyer by the
23 seller of such aircraft for its rental by seller;
- 24 (e) rental payments received for the rental of a
25 commercial aircraft, to the extent that such rental payments in

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1 any quarter shall equal the sale payments made to the lessor by
2 lessee of such aircraft for its purchase by the lessor;

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

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

16 (h) sale payments received from the sale within the
17 Federated States of Micronesia of soap or any soap products
18 including shampoo and coconut oil produced, processed or
19 manufactured in or within the Federated States of Micronesia.

20 (6) 'Military or Naval Forces of the United States' and
21 'Armed Forces of the United States' means all regular and
22 reserve components of the uniformed services which are subject
23 to the jurisdiction of the Secretary of the Army, Navy, or Air
24 Force, and also includes the Coast Guard.

25 (7) 'Month' means calendar month.

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

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

9 (10) 'Secretary' means the Secretary of the Department
10 of Finance.

11 (11) 'Wages' or 'Salaries' means and includes
12 commissions, fees, compensation, emoluments, bonuses, and
13 every and all other kinds of compensation paid for, credited, or
14 attributable to personal services performed by an individual, which
15 services have been performed by such person as an employee.

16 Wages and salaries shall not include the following:

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

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

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

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1 provide a home);

2 (d) any payment on account of sickness or accident
3 disability, or any payment of medical or hospitalization expenses,
4 made by an employer to or on behalf of an employee; provided,
5 however, that normal wages or salaries paid to an employee for
6 a period of time during which he is excused from work because of
7 sickness shall not be excluded from wages and salaries under this
8 subsection;

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

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

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

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

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

24 (j) wages and salaries received by an employee for
25 services performed or rendered in the capacity of a domestic or

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household employee for a private individual or family; or
(k) wages and salaries received by an employee,
who is not a citizen of the Federated States of Micronesia, while
employed 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. This act shall become law upon approval by the President of
the Federated States of Micronesia or upon its becoming law without such
approval.

Date: 6/8/95

Introduced by: Jack Fritz
Jack Fritz