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A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, regarding taxation, as amended, by further amending section 112, as amended by Public Law No. 7-41, for the purpose of providing that tax exempt organizations performing services substantially similar to those provided by taxable entities shall be taxed on income derived from those activities, 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 as amended by Public Law No. 7-41, is hereby further amended to read as
3 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/~~
7 ~~manufacture/ or other undertaking carried on for~~
8 ~~pecuniary profit and includes~~ all activities whether personal,
9 professional, or incorporated, carried on within the Federated
10 States of Micronesia for economic benefit either direct or indirect,
11 but excludes any organization possessing a current and validly
12 issued Exemption Number, and excludes casual sales, as determined
13 by the Secretary; however, one who qualifies as an employee under
14 this section shall not be considered as a business. Notwithstanding
15 the above, if an organization possessing a validly issued Exemption
16 Number provides services substantially similar to those provided by,
17 or which might normally be provided by, a non-exempt entity, any
18 activities relating to such services, as determined by the Secretary,
19 shall be included as a business under this definition. Copra
20 production by unincorporated copra producers collectively or
21 severally shall not be included as a business under this definition.

22 (2) 'Business segment' means any commercial activity carried
23 on by a business that is readily distinguishable from other
24 commercial activities carried on by that business.

25 (23) 'Commercial aircraft' means any aircraft capable of and

1 intended for use in commercial aviation.

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

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

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

25 (a) refunds and rebates;

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- (b) moneys held in a fiduciary capacity;
 - (c) income in the form of wages and salaries which are taxed under other provisions of this chapter;
 - (d) sale payments received for the sale of a commercial aircraft, to the extent that such sale payments in any quarter shall equal the rental payments made to the buyer by the seller of such aircraft for its rental by seller;
 - (e) rental payments received for the rental of a commercial aircraft, to the extent that such rental payments in any quarter shall equal the sale payments made to the lessor by lessee of such aircraft for its purchase by the lessor;
 - (f) cash discounts allowed and taken on sales, the proceeds of sale of goods, wares, or merchandise returned by customers when the sale price is refunded either in cash or by credit; or the sale price of any article accepted as part of payment of any new article sold, if the full sale price of a new article is included in 'gross revenue'; or
 - (g) gross revenue received by an international organization, foreign contractor, or other foreign entity paid from foreign aid proceeds donated to the Federated States of Micronesia pursuant to a foreign aid agreement entered into by the Federated States of Micronesia, the terms of which require that such gross revenue shall not be subject to taxation by the Government of the Federated States of Micronesia.
- (6Z) 'Military or Naval Forces of the United States' and 'Armed

1 Forces of the United States' means all regular and reserve
2 components of the uniformed services which are subject to the
3 jurisdiction of the Secretary of the Army, Navy, or Air Force, and
4 also includes the Coast Guard.

5 (78) 'Month' means calendar month.

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

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

14 (1011) 'Secretary' means the Secretary of the Department of
15 Finance or his designee.

16 (1112) 'Wages' or 'Salaries' means and includes commissions,
17 fees, compensation, emoluments, bonuses, and every and all other
18 kinds of compensation paid for, credited, or attributable to personal
19 services performed by an individual, which services have been
20 performed by such person as an employee. Wages and salaries
21 shall not include the following:

22 (a) wages and salaries received from the United States
23 by members of the Military or Naval Forces of the United States or
24 the Armed Forces of the United States;

25 (b) reasonable per diem and travel allowances to the

1 extent that they do not exceed any comparable Federated States
2 of Micronesia Government rates;

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

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

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

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

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

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

25 (i) wages and salaries received by a minister of the

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1 gospel or clergyman from a religious group or organization;

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

5 (k) wages and salaries received by an employee, who is
6 not a citizen of the Federated States of Micronesia, while employed
7 by an international organization, foreign contractor, or other foreign
8 entity performing services or otherwise conducting business in
9 furtherance of a foreign aid agreement entered into by the
10 Federated States of Micronesia, the terms of which require that
11 such wages and salaries shall not be subject to taxation by the
12 Government of the Federated States of Micronesia.

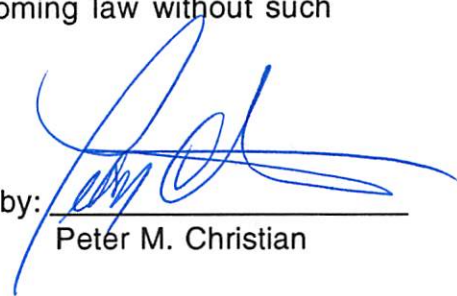
13 (1213) 'Year' means calendar year.

14 (14) 'Exemption number' means a number assigned to an
15 organization by the Secretary indicating that such organization is
16 exempt from taxation under section 141 of this title.

17 (15) 'Good cause' means any natural or medical event or
18 circumstance beyond the control of the taxpayer which prevents
19 that taxpayer from filing a return or remitting money payable under
20 this title when due."

21 Section 2. This act shall become law upon approval by the President of
22 the Federated States of Micronesia or upon its becoming law without such
23 approval.

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25 Date: 11-16-95

Introduced by: 
Peter M. Christian