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 thereof, as amended by Public Laws Nos. 7-41 and 10-93, and by further amending section 222 thereof, as enacted by Public Law No. 9-139 and amended by Public Laws Nos. 10-10 and 10-136, for the purpose of adding an exemption to the gross revenue tax for revenue from industrial processing of goods in the FSM which are subsequently exported from the FSM, broadening the existing import tax exemption for goods subsequently exported to include goods imported for such processing in the FSM and certain goods imported for transshipment through the FSM, 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 Laws Nos. 7-41
3 and 10-93, is hereby further amended to read as follows:
4 "Section 112. Definitions. Wherever used in this
5 chapter, unless the subject matter, context, or sense
6 otherwise requires:
7 (1) 'Business' means any profession, trade,
8 manufacture, or other undertaking carried on for
9 pecuniary profit and includes all activities whether
10 personal, professional, or incorporated, carried on
11 within the Federated States of Micronesia for economic
12 benefit either direct or indirect, and excludes casual
13 sales, as determined by the Secretary; however, one who
14 qualifies as an employee under this section shall not be
15 considered as a business. Copra production by
16 unincorporated copra producers collectively or severally
17 shall not be included as a business under this
18 definition.
19 (2) 'Commercial aircraft' means any aircraft capable of
20 and intended for use in commercial aviation.
21 (3) 'Employee' means any individual who, under the
22 usual common law rules applicable in determining the
23 employer-employee relationship, has the status of an
24 employee.
25 (4) 'Employer' includes any individual, corporation,
association, joint stock company, bank, insurance
compAany, credit union, cooperative, or other equity or
group employing any person, and also includes the
Federated States of Micronesia, State and local
governments, and their agencies, charged with the
disbursement of public moneys as salaries or wages.
'Employer' also includes the United States Government and
instrumentalities thereof.

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

(a) refunds and rebates;

(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 the 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 the 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; [er]

(h) gross revenue derived solely from the export sales of tangible personal property produced or manufactured in the Federated States of Micronesia and delivered to a buyer outside the Federated States of Micronesia[\textsuperscript{\textregistered}] or

(i) gross revenue derived solely from industrial processing of goods in the Federated States of Micronesia which are subsequently exported from, and not used in, the Federated States of Micronesia.

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

(7) 'Month' means calendar month.

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

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

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

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

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

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

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

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

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

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

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

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

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

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