

RED/W&M

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,

1 association, joint stock company, bank, insurance  
2 company, credit union, cooperative, or other equity or  
3 group employing any person, and also includes the  
4 Federated States of Micronesia, State and local  
5 governments, and their agencies, charged with the  
6 disbursement of public moneys as salaries or wages.

7 'Employer' also includes the United States Government and  
8 instrumentalities thereof.

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

24 (a) refunds and rebates;

25 (b) moneys held in a fiduciary capacity;

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

3 (d) sale payments received for the sale of a  
4 commercial aircraft, to the extent that such sale  
5 payments in any quarter shall equal the rental payments  
6 made to the buyer by the seller of such aircraft for its  
7 rental by the seller;

8 (e) rental payments received for the rental of a  
9 commercial aircraft, to the extent that such rental  
10 payments in any quarter shall equal the sale payments  
11 made to the lessor by the lessee of such aircraft for its  
12 purchase by the lessor;

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

20 (g) gross revenue received by an international  
21 organization, foreign contractor, or other foreign entity  
22 paid from foreign aid proceeds donated to the Federated  
23 States of Micronesia pursuant to a foreign aid agreement  
24 entered into by the Federated States of Micronesia, the  
25 terms of which require that such gross revenue shall not

1 be subject to taxation by the Government of the Federated  
2 States of Micronesia; [øf]

3 (h) gross revenue derived solely from the export  
4 sales of tangible personal property produced or  
5 manufactured in the Federated States of Micronesia and  
6 delivered to a buyer outside the Federated States of  
7 Micronesia[-]; or

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

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

17 (7) 'Month' means calendar month.

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

24 (9) 'Rental payments' means any payments made in  
25 exchange for use or rental, and includes interest,

1 carrying charges, or other charges associated with use or  
2 rental.

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

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

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

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

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

22 (d) any payment on account of sickness or accident  
23 disability, or any payment of medical or hospitalization  
24 expenses, made by an employer to or on behalf of an  
25 employee; provided, however, that normal wages or

1 salaries paid to an employee for a period of time during  
2 which he is excused from work because of sickness shall  
3 not be excluded from wages and salaries under this  
4 subsection;

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

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

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

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

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

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