AN ACT

To revise Part I of Title 77 of the Trust Territory Code, Taxation, by amending Sections 154, 155, 250, 251, 253, 257, 259, 260, 262, 268, 269 and 270 thereof, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Part I of Title 77 of the Trust Territory Code, Taxation, is hereby revised by amending Sections 154, 155, 250, 251, 253, 257, 259, 260, 262, 268, 269 and 270 as follows:

4 (1) "Section 154. Rules and regulations--Promulgation by Director of Finance. The Director 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 Part and all such taxes, fees and charges shall be deposited in the General Fund of the Federated States of Micronesia for appropriation by the Congress of the Federated States of Micronesia. Such rules and regulations shall wherever practicable require payment in full of all taxes, fees and charges immediately upon assessment, and in the case of import taxes, no later than fifteen days after the departure of the vessel or plane on which the products subject to import taxes arrived and before any merchandise is released by the carrier or his agent to the importer and, in the case of export taxes, before any merchandise is loaded on any vessel or aircraft."

19 (2) "Section 155. Transactions to be recorded--Penalties for violations. Every person, firm, corporation, or association engaging in any transaction subject to a tax, fee or charge levied or imposed under this Part shall keep a full and accurate record of
each such transaction engaged in by him and such record shall be
available for examination by the Director of Finance or his
authorized representative for at least three years after the date
of such transaction. Any person, firm, corporation or association
wilfully failing to keep or make available for examination such
records shall be guilty of a misdemeanor and upon conviction thereof
shall be punished in accordance with the terms of Section 201,
Chapter 9 of this Part, and, in addition thereto, shall be subject
to the immediate revocation of any relevant existing license to do
business in the Federated States of Micronesia."
(3) "Section 250. Short title. This Chapter shall be entitled the
'Federated States of Micronesia Income Tax Law'."
(4) "Section 251. Definitions. Wherever used in this Chapter,
unless the subject matter, context, or sense otherwise requires:
(1) 'Employer' includes any individual, corporation,
association, joint stock company, bank, insurance company, credit
union, cooperative, or other equity or group employing any person,
and also includes the Trust Territory, Federated States of Micronesia,
state and local governments and their agencies, charged with the
disbursement of public monies as salaries or wages. 'Employer' also
includes the United States Government and instrumentalities thereof.
(2) 'Employee' means any individual who, under the usual
common law rules applicable in determining the employer-employee
relationship, has the status of an employee.
(3) 'Wages' or 'Salaries' means and includes commissions, fees,
compensation, emoluments, bonuses, and every and all other kinds of compensation paid for, 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 Trust Territory 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, fellow-
ship, or stipend made to any employee while he is a full-time, bona
fide student at an educational institution within the Trust Terri-
tory.

(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.

(k) Wages and salaries received by a non-Trust Territory
citizen employee for services performed or rendered within the Trust
Territory for a total of not more than ninety days or less during
any one calendar year.

(4) 'Director' means the Director of the Department of
Finance.

(5) 'Month' means calendar month.

(6) 'Year' means calendar year.

(7) '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 77 TTC
Section 251 (3), as amended, 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 service, or both, and all receipts, actual or accrued by reason of the capital of the business engaged in, including interest, discount, 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, interest or discount paid or any other expenses whatsoever. Gross revenue shall not include the following:

(a) refunds, rebates and returns;
(b) monies 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; or
(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.

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

(9) '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.

(10) 'Commercial aircraft' means any aircraft capable of any
intended for use in commercial aviation.

(11) '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.

(12) '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.'

(5) "Section 253. Withholding by the employer. The tax imposed
by Section 252 of this Title shall be collected by the employer
by deducting and withholding the tax imposed on any wages and
salaries as and when paid or credited to the employee. Every
employer required to deduct and withhold the tax imposed shall be
liable for the payment and shall pay such tax to the National
Revenue Officer of the state in which the employer has his princi-
al place of business, or to the Director, if the employer has
no place of business in the Federated States of Micronesia. Any
employer who violates any of the provisions of this Section shall
be subject to the penalties prescribed in this Chapter."

(6) "Section 257. Individual to file return of earned income.
Any individual who is paid or credited wages or salaries from an
employer who does not have a place of business in the Federated
States of Micronesia and does not have an agent within the
Federated States of Micronesia responsible for making the returns,
withholdings and payments of taxes on compensation required by
this Chapter, shall file a return with and pay the tax due under
this Chapter to, the National Revenue Officer of the state in
which he resides or in which he is present at the time for payment
as may be required by the rules of the Director, or, if he is not
at the time within the Federated States of Micronesia, then with and
to the Director. Any individual who is paid or credited wages
from the United States or an instrumentality thereof shall be
under the same duty as an individual who is paid or credited wages
or salaries from an employer who does not have a place of business
in the Federated States of Micronesia, unless the tax has been
withheld from such salaries and wages as provided by 77 TTC
Section 253 of this Chapter.
All such returns shall be filed, and the payments thereon shall be made, at the times and in the manner prescribed in 77 TTC Section 253 and 77 TTC Section 254 (1) of this Chapter and each return shall state the name of the individual filing the same, the name, residence and address of his employer, the total of all compensation received for the preceding three months and the tax due thereon, and shall include such other information and be upon such form as the Director shall require or prescribe.

Failure to comply with the provisions of this Section shall be punishable under the penalties prescribed in this Chapter. The Director, upon request of a taxpayer required by this Section to make returns, may permit semiannual returns and payments of tax with respect to salaries and wages, and in granting such permission shall fix the date or dates for such filing of returns and payment of taxes. The Director, for good cause, may extend the time for making returns and payments, but not beyond the twentieth day of the second month succeeding the regular due date thereof."

(7) "Section 259. Returns, withholdings, and payment of tax on gross revenue from businesses.

(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 Revenue Officer in the state in which the business has its principal place of business in the
Federated States of Micronesia, or to the Director. Each business shall, on or before the date provided for payment of tax under this Subsection, 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, which 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 Director. The Director, 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.

(2) Every business shall be liable for the payment of the tax required to be deducted and paid by it to the Government.

(3) Failure to comply with the provisions of this Section shall be punishable under the penalties prescribed by this Chapter."

(8) "Section 260. Apportionment.

(1) If an employee is credited or paid salaries or wages derived from, or attributable to, personal services performed or rendered both within and without the Federated States of Micronesia during any given month, then the whole of the salaries or wages shall be presumed to have been earned within the Federated States of Micronesia; provided, however, that the employer paying the tax or the employee whose compensation is taxed may file for an apportionment of the tax on a form prescribed by the Director
and the tax shall be levied only on that portion of the salary or wages which is attributable to personal services performed or rendered within the Federated States of Micronesia.

(2) If any business earns or derives its gross revenue from business activities or undertakings both within and without the Federated States of Micronesia during the taxable year, then the whole of its gross revenue shall be presumed to have been derived from sources within the Federated States of Micronesia; provided, however, that the business may file for an apportionment of the tax on a form prescribed by the Director and the tax shall be levied only on that portion which is earned in, or derived from sources or transactions or parts of transactions within the Federated States of Micronesia."

(9) "Section 262. Regulations. The Director shall, subject to approval of the President of the Federated States of Micronesia, prescribe and have printed reasonable regulations for the enforcement of this Chapter and such regulations shall have the force and effect of law if they are not in conflict with the express provisions of this Chapter or other laws of the Federated States of Micronesia. Such regulations shall also provide for the making of returns concerning any taxes imposed by this Chapter, and the payment thereof, in any situations not specifically covered by this Chapter."

(10) "Section 268. Review.

(1) If a decision of the Director is adverse to the taxpayer,
in whole or in part, the taxpayer shall have the right within one year from the date of such decision to institute an action for review, irrespective of the amount, in a court of competent jurisdiction in the Federated States of Micronesia. Such action shall be commenced by filing a petition setting forth assignments of all errors alleged to have been committed by the Director in his determination of the assessment, the facts relied upon to sustain such assignments of errors, and a prayer for appropriate relief. The Director or his successor in office shall be the defendant in such proceedings.

(2) When the decision of the Court or an appeal therefrom becomes final, the Director shall, upon presentation of a certified copy of the decree, make such adjustments as are necessary to correct, amend or abate the assessment, and to determine whether any additional amount should be assessed.

(3) Where the assessment is paid, in whole or in part, after the filing of the petition, the Court shall not thereby be deprived of jurisdiction."

(11) "Section 269. Privileged information.

(1) All reports and returns required by this Chapter shall be preserved for three years and thereafter until the Director orders them to be destroyed.

(2) The Director and every employee of the Department of Finance shall maintain the secrecy of all matters relating to this Chapter which come to their knowledge and shall not
communicate such matters to any person except for the purpose of
carrying into effect this Chapter or any other enactment imposing
taxes or duties payable to the Government of the Federated States
of Micronesia.

(3) The Director and every employee of the Department of
Finance while in such employment shall not engage in the business
or profession of tax accounting or accept employment with compensa-
tion from any person, firm, or corporation for the purpose, directly
or indirectly, of preparing the tax returns required by the
Government of the Federated States of Micronesia. Nor shall such
person accept any employment for the purpose of advising or
preparing materials or data, or the auditing of books or records
to be used in an effort to defeat or cancel any tax or part thereof
that has been assessed by the Government of the Federated States
of Micronesia.

(4) No employee of the Department of Finance shall be
required to produce in any court any matter or thing relating to
the taxes imposed by this Chapter coming under his notice in the
performance of his duties as an employee of the Revenue Division
except when it is necessary to do so for the purpose of carrying
into effect any provision of this Chapter or any other enactment
imposing duties or taxes payable to the Government of the Federated
States of Micronesia.

(5) Information as to the amount of income or any particular
set forth or disclosed in any report or return required under this
Chapter may, upon request of a committee appointed by the Congress of the Federated States of Micronesia, be furnished to the committee, but the committee or any member, clerk, or other officer or employee thereof shall not disclose any particulars of the information so furnished except to law enforcement officers for the purpose of aiding the detection or prosecution of crimes committed in violation of this Chapter.

(6) The Attorney General or other legal representatives of the Government of the Federated States of Micronesia may inspect the report of return of any taxpayer who brings an action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this Chapter.

(7) Nothing herein shall prohibit the Director or his delegate from compiling and publishing statistics or information generally on the returns filed so long as there is no reference to a particular return and the statistics and the information do not in effect divulge the contents of any one return.

(8) Any violation of Subsections (2), (3), (4), or (5) of this Section shall be a misdemeanor and shall be punishable by a fine of not more than $500 or imprisonment for not more than six months, or both."
Section 2. This act shall take effect upon approval by the President of the Federated States of Micronesia, or upon its becoming law without such approval.

February 7, 1980

Tosiwo Nakayama
President
Federated States of Micronesia