A BILL FOR AN ACT

To further amend section 251 of title 77 of the Trust Territory Code, as amended by Public Law No. 1-83, to provide a new definition of the term "Gross Revenue," and for other purposes.

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

Section 1. Section 251 of title 77 of the Trust Territory Code, as amended by Public Law No. 1-83, is hereby further amended to read as follows:

"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 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,
fellowship, or stipend made to any employee while he is
a full-time, bona fide student at an educational institu-
tion within the Trust Territory.

(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; designated and without any deductions on account of the cost of property sold, the cost of materials used, labor cost, taxes royalties, or interest of discount paid or any other expenses whatsoever. Gross revenue shall not include the following:

(a) refunds and rebates

(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 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; or

(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.'

(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."

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: [Signed]

Introduced by: [Signed]

Elias H. Thomas