

WM

A BILL FOR AN ACT

To revise Title 77 of the Trust Territory Code, Taxation, by amending Section 251, as amended by Public Laws Nos. 1-83 and 2-23, and by adding a new Section 281 creating a surtax on the wages and salaries of public employees, and for other purposes.

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

1 Section 1. Section 251 of Title 77 of the Trust Territory Code,
2 Taxation, as amended by Public Laws Nos. 1-83 and 2-23, is hereby further
3 amended to read as follows:

4 "Section 251. Definitions. Wherever used in this Chapter,
5 unless the subject matter, context, or sense otherwise
6 requires:

7 (1) 'Employer' includes any individual, corporation,
8 association, joint stock company, bank, insurance company,
9 credit union, cooperative, or other equity or group employing
10 any person, and also includes ~~the Trust Territory, Federated~~
11 ~~States of Micronesia, State and local governments and~~
12 ~~their agencies, charged with the disbursement of public~~
13 ~~monies as salaries or wages. 'Employer' also includes the~~
14 ~~United States Government and instrumentalities thereof. any~~
15 public employer.

16 (2) 'Public employer' includes the Trust Territory,
17 Federated States of Micronesia, State and local governments and
18 their agencies, charged with the disbursement of public monies
19 as salaries or wages. 'Public employer' also includes the
20 United States Government and instrumentalities thereof.

21 ~~(2)~~(3) 'Employee' means any individual who, under the
22 usual common law rules applicable in determining the employer-
23 employee relationship, has the status of an employee.

24 (4) 'Public employee' means any individual who is an
25 employee of a public employer including any elected or

Wm

1 appointed official.

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

9 (a) Wages and salaries received from the United
10 States by members of the Military or Naval Forces of the
11 United States or the Armed Forces of the United States.

12 (b) Reasonable per diem and travel allowances to the
13 extent that they do not exceed any comparable Trust Territory
14 Government rates.

15 (c) Rental value of a home furnished to any
16 employee or a reasonable rental allowance paid to any employee
17 (to the extent such allowance is used by the employee to
18 rent or provide a home).

19 (d) Any payment on account of sickness or accident
20 disability, or any payment of medical or hospitalization
21 expenses, made by an employer to or on behalf of an employee;
22 PROVIDED, however, that normal wages or salaries paid to an
23 employee for a period of time during which he is excused from
24 work because of sickness shall not be excluded from wages
25 and salaries under this Subsection.

1 (e) Any payment made to or on behalf of an employee
2 or to his beneficiary from a trust or annuity.

3 (f) Remuneration paid in any medium other than cash
4 to an employee for service not in the ordinary course of the
5 employer's trade or business or for domestic service in a
6 private home of an employer.

7 (g) Remuneration paid for casual or intermittent
8 labor not performed in the ordinary course of the employer's
9 trade or business and for not more than one week in each
10 calendar month.

11 (h) Any payment in the form of a scholarship, fellow-
12 ship, or stipend made to any employee while he is a full-time,
13 bona fide student at an educational institution within the
14 Trust Territory.

15 (i) Wages and salaries received by a minister of
16 the gospel or clergyman from a religious group or organization.

17 (j) Wages and salaries received by an employee
18 for services performed or rendered in the capacity of a domestic
19 or household employee for a private individual or family.

20 ~~(4)~~(6) 'Director' means the Director of the Department
21 of Finance.

22 ~~(5)~~(7) 'Month' means calendar month.

23 ~~(6)~~(8) 'Year' means calendar year.

24 ~~(7)~~(9) 'Gross Revenue' means the gross receipts, cash or
25 accrued, of the taxpayer received as compensation for personal

Wm

1 services not in the form of salaries or wages as defined
2 in 77 TTC Section 251 (3), as amended, and the gross receipts
3 of the taxpayer derived from trade, business, commerce or
4 sales and the value proceeding or accruing from the sale of
5 tangible personal property, or service, or both,
6 and all receipts, actual or accrued by reason of the capital
7 of the business engaged in, including interest, rentals,
8 royalties, fees, or other emoluments however designated
9 and without any deductions on account of the cost of
10 property sold, the cost of materials used, labor cost, taxes
11 royalties, or interest paid or any other expenses whatsoever.

12 Gross revenue shall not include the following:

- 13 (a) refunds and rebates;
- 14 (b) monies held in a fiduciary capacity;
- 15 (c) income in the form of wages and salaries which
16 are taxed under other provisions of this Chapter;
- 17 (d) sale payments received for the sale of a
18 commercial aircraft, to the extent that such sale payments in
19 any quarter shall equal the rental payments made to the buyer
20 by the seller of such aircraft for its rental by the seller;
- 21 (e) rental payments received for the rental of a
22 commercial aircraft, to the extent that such rental payments
23 in any quarter shall equal the sale of payments made to the
24 lessor by lessee of such aircraft for its purchase by the
25 lessor; or

Wm

1 (f) cash discounts allowed and taken on sales, the
2 proceeds of sale of goods, wares, or merchandise returned
3 by customers when the sale price is refunded either in cash
4 or by credit; or the sale price of any article accepted as
5 part of payment of any new article sold, if the full sale
6 price of a new article is included in 'gross revenue.'

7 ~~(8)~~(10) 'Business' means any profession, trade, manufacture
8 or other undertaking carried on for pecuniary profit and includes
9 all activities whether personal, professional or incorporated,
10 carried on within the Federated States of Micronesia for econo-
11 mic benefit either direct or indirect, and excludes casual sales,
12 as determined by the Director, however, one who qualifies as
13 an employee under this Section shall not be considered as
14 a business. Copra production by unincorporated copra producers
15 collectively or severally shall not be included as a
16 business under this definition.

17 ~~(9)~~(11) 'Military or Naval Forces of the United States'
18 and 'Armed Forces of the United States' means all regular
19 and reserve components of the uniformed services which are
20 subject to the jurisdiction of the Secretary of the Army,
21 Navy, or Air Force, and also includes Coast Guard.

22 ~~(10)~~(12) 'Commercial aircraft' means any aircraft capable
23 of any intended for use in commercial aviation.

24 ~~(11)~~(13) 'Purchase payments' means payments on the actual
25 selling price, including any interest, carrying charges or other

Wm

1 charges associated with a sale. As used herein, the word
2 'sale' implies a transfer of ownership of that which is sold
3 in exchange for the purchase payments or promise thereof.

4 ~~(12)~~(14) 'Rental payments' means any payments made in
5 exchange for use or rental, and includes interest, carrying
6 charges or other charges associated with use or rental."

7 Section 2. Title 77 of the Trust Territory Code, Taxation, is hereby
8 amended by adding a new Section 281 as follows:

9 "Section 281. National Surtax on wages and salaries of public
10 employees.

11 (1) There shall be assessed, levied, collected, and
12 paid a surtax on the tax imposed on wages and salaries in
13 Section 252 of this Title. This surtax shall be levied
14 only against the wages and salaries received by every public
15 employee, as defined, from a public employer, as defined.
16 The surtax shall be 50 percent of the tax imposed upon the
17 amount over the first \$11,000 earned, 100 percent of the tax
18 imposed upon the amount over the first \$20,000 earned, and
19 150 percent of the tax imposed upon the amount over the first
20 \$30,000 earned.

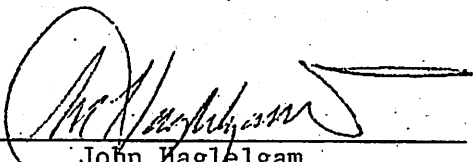
21 (2) The surtax authorized by Subsection (1) of this
22 Section shall be assessed, levied, and collected by the
23 Director pursuant to the provisions of this Chapter.
24
25

Wm

1 Section 3. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its becoming law
3 without such approval.

4
5 Date: October 26, 1981

Introduced by:


John Nagelgam

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25