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2-278

A BILL FOR AN ACT

To amend 54 FSMC 112 (1) to provide a new definition of the term "Business," and for other purposes.

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

1 Section 1. Section 112 (1) of title 54 of the Code of the
2 Federated States of Micronesia is hereby amended to read as follows:

3 "Section 112. Definitions. Wherever used in this chapter,
4 unless the subject matter, context, or sense otherwise
5 requires.

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

16 Business shall not include the following:

17 (a) Copra production by unincorporated copra
18 producers collectively or severally; or

19 (b) Individuals, companies, associations, or
20 corporations engaged exclusively in the purchase or sale
21 of locally grown fruits, vegetables, or grains.

22 (2) "Commercial aircraft" means any aircraft capable of
23 and intended for use in commercial aviation.

24 (3) "Employee" means any individual who, under the
25 usual common law rules applicable in determining the

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1 employer-employee relationship, has the status of an employee.

2 (4) "Employer" includes any individual, corporation,
3 association, joint stock company, bank, insurance company,
4 credit union, cooperative, or other equity or group employing
5 any person, and also includes the Trust Territory, Federated
6 States of Micronesia, State and local governments, and their
7 agencies, charged with the disbursement of public moneys as
8 salaries or wages. "Employer" also includes the United States
9 Government and instrumentalities thereof.

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

- 24 (a) refunds and rebates;
- 25 (b) moneys held in a fiduciary capacity; /

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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 com-
4 mercial aircraft, to the extent that such sale payments in
5 any quarter shall equal the rental payments made to the buyer
6 by the seller of such aircraft for its rental by seller;

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

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

17 (6) "Military or Naval Forces of the United States" and
18 "Armed Forces of the United States" means all regular and
19 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 the Coast Guard.

22 (7) "Month" means calendar month.

23 (8) "Purchase payments" means payments on the actual
24 selling price, including any interest, carrying charges, or
25 other charges associated with a sale. As used herein, the

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1 word "sale" implies a transfer of ownership of that which is sold, in
2 exchange for the purchase payments or promise thereof.

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

6 (10) "Secretary" means the Secretary of the Department
7 of Finance.

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

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

17 (b) reasonable per diem and travel allowances to
18 the extent that they do not exceed any comparable Trust
19 Territory Government rates;

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

24 (d) any payment on account of sickness or accident
25 disability, or any payment of medical or hospitalization

1 expenses, made by an employer to or on behalf of an employee;
2 provided, however, that normal wages or salaries paid to an
3 employee for a period of time during which he is excused from
4 work because of sickness shall not be excluded from wages and
5 salaries under this subsection;

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

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

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

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

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

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

25 (12) "Year" means calendar year." /

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

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5 Date: 10/26/82

Introduced by: *John Haglelgam*
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