

W.F.M.

A BILL FOR AN ACT

To amend section 112 (5) of title 54 of the Code of the Federated States of Micronesia 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 112 (5) of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

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

(1) '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 includes casual sales, as determined by the Secretary; 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.

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

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

(4) 'Employer' includes any individual, corporation, association, joint stock company, bank, insurance company, credit union, cooperative, or other entity or group employing any person, and also includes the Trust Territory, Federated States of Micronesia, State and local governments, and their

1 agencies, charged with the disbursement of public moneys as
2 salaries or wages. 'Employer' also includes the United
3 States Government and instrumentalities thereof.

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

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

1 (e) rental payments received for the rental of a
2 commercial aircraft, to the extent that such rental payments
3 in any quarter shall equal the sale payments made to the
4 lessor by lessee of such aircraft for its purchase by the
5 lessor; or

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

12 (g) income received from the sale of locally grown,
13 gathered, or produced fruits, vegetables, grains, plants,
14 meat, livestock, eggs, fish, shellfish, marine products, or
15 handicrafts. This exclusion does not apply to local foods
16 sold and served in restaurants.

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 subject
20 to the jurisdiction of the Secretary of the Army, Navy, or
21 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

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

3 (9) 'Rental payments' means any payments made in exchange
4 for use or rental, and includes interest, carrying charges,
5 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
10 and 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 employee
21 or a reasonable rental allowance paid to any employee (to the
22 extent such allowance is used by the employee to rent or
23 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 to his beneficiary from a trust or annuity;

8 (f) remuneration paid in any medium other than
9 cash to an employee for service not in the ordinary course of
10 the employer's trade or business or for domestic service in
11 a 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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Introduced by: *Isaac Figir*
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