A BILL FOR AN ACT

To amend title 54 of the Code of the Federated States of Micronesia by amending sections 112 and 141; by repealing section 201 in its entirety and enacting a new section 201; to provide a new definition of "gross revenue"; to modify rates of taxes on "gross revenue" and imports; and for other purposes.

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

Section 1. Section 112 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 excludes 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. '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. '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 moneys as
salaries or wages. 'Employer' also includes the United States
Government and instrumentalities thereof.

(§ 4) '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
subsection (10) of this section, 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, 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, or interest paid or any
other expenses whatsoever. Gross revenue shall not include
the following:

(a) refunds and rebates;
(b) moneys held in a fiduciary capacity;
(c) income in the form of wages and salaries which
are taxed under other provisions of this chapter;

14) any revenue prescribed for the time of a
commercial activity is the extent that such sale prescribed to
any person shall equal the total payment made to the seller
by the seller of such activity for the retail by seller.
(c) rental payments received for the rental of a
commercial lease to the extent that such rental payments
in any quarter shall equal the sale payments made to the lessor
by lessee of such lease for the purchase by the lessee of
(f.d) 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';
(e) income received from the sale of locally grown,
gathered, or produced fruits, vegetables, grains, plants,
meat, livestock, eggs, fish, shellfish, marine products, or
handicrafts; or
(f) wages and salaries paid to citizen workers.

(§ 5) '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.

(§ 6) 'Month' means calendar month.

(§ 7) '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.

(§ 8) '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.

(III 9) 'Secretary' means the Secretary of the Department of
Finance.

(II 10) '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,
fellowship, or stipend made to any employee while he is a
full-time, bona fide student at an educational institution
within the Trust Territory;

(i) wages and salaries received by a minister of
the gospel or clergyman from a religious group or organi-
ization;

(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.

(12) 'Year' means calendar year."
Section 2. Section 141 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 141. Tax on gross revenues; Exemption.

(1) There shall not be assessed, levied, collected, and paid a tax of $80 per year for any tax upon that portion of the amount of gross revenues earned by every business subject to the provisions of this chapter which does not exceed $10,000 per year.

(2) There shall be assessed, levied, collected, and paid a tax of three percent per year upon that portion of the amount of gross revenues earned by every business subject to the provisions of this chapter which is in excess of $10,000 per year.

(3) Businesses which earn gross revenues of not more than $2,000 per year are exempt from taxation under this section. They shall file a return under the provisions of sections 123 and 124 of this chapter.

(3) Businesses exempted from gross revenue tax under subsection (1) are required to file returns pursuant to section 143 of this title."

Section 3. Section 201 of title 54 of the Code of the Federated States of Micronesia is hereby repealed in its entirety and a new section 201 is hereby enacted to read as follows:
"Section 201. Import taxes - Levy and rates. The following import taxes are hereby levied on all products specified herein which are imported into the Federated States of Micronesia for resale except that the taxes levied under subsections (2), (4), (5), and (6) of this section shall apply to products which are imported into the Federated States of Micronesia for personal use and consumption as well as for resale:

(1) Foodstuffs for human consumption at the rate of 3 percent ad valorem;

(2) Motorized vehicles and outboard motors at the rate of 10 percent CIF value;

(3) Perfumery, cosmetics, and toiletries, including cologne and other toilet waters, articles of perfumery, whether in sachets or otherwise, and all preparations used as applications to the hair or skin, lipsticks, pomades, powders, and other toilet preparations not having medicinal properties, at the rate of 25 percent ad valorem;

(4) Wine and distilled alcoholic beverages, at the rate of 3.00 per liter;

(5) Cigarettes at the rate of 7 cents per 20 cigarettes;

(6) Beer and malt beverages, at the rate of 6 cents per can or bottle of 12 fluid ounces or fractional part thereof;

(7) All other imported products, except those specified above, at the rate of 9 percent ad valorem."
Section 4. 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: Nov. 6, 1984

Introduced by:

Peter M. Christian