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A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 4-32 and 4-81, by further amending section 112, as amended by Public Law No. 4-81, for the purpose of providing for a certain exception to the definition of "wages and salaries" as required by the terms of foreign aid agreements entered into by the Federated States of Micronesia; to make the section consistent with the Federated States of Micronesia political status; and for other purposes.

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

1       Section 1. Section 112 of title 54 of the Code of the Federated  
2 States of Micronesia, as amended by Public Law No. 4-81, is hereby  
3 further amended to read as follows:

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

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

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

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

24           (4) 'Employer' includes any individual, corpora-  
25 tion, association, joint stock company, bank, insurance

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1            company, credit union, cooperative, or other equity or  
2            group employing any person, and also includes the Trust  
3            Territory, Federated States of Micronesia, State and local  
4            governments, and their agencies, charged with the disburse-  
5            ment of public moneys as salaries or wages. 'Employer'  
6            also includes the United States Government and instru-  
7            mentalities thereof.

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

- 23                    (a) refunds and rebates;
- 24                    (b) moneys held in a fiduciary capacity;
- 25                    (c) income in the form of wages and salaries

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1           which are taxed under other provisions of this chapter;

2                   (d) sale payments received for the sale of a  
3           commercial aircraft, to the extent that such sale payments  
4           in any quarter shall equal the rental payments made to the  
5           buyer by the seller of such aircraft for its rental by  
6           seller;

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

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

19                   (g) gross revenue received by an international  
20          organization, foreign contractor, or other foreign entity  
21          paid from foreign aid proceeds donated to the Federated  
22          States of Micronesia pursuant to a foreign aid agreement  
23          entered into by the Federated States of Micronesia, the  
24          terms of which require that such gross revenue shall not  
25          be subject to taxation by the Government of the Federated

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1 States of Micronesia.

2 (6) 'Military or Naval Forces of the United States'  
3 and 'Armed Forces of the United States' means all regular  
4 and reserve components of the uniformed services which  
5 are subject to the jurisdiction of the Secretary of the  
6 Army, Navy, or Air Force, and also includes the Coast  
7 Guard.

8 (7) 'Month' means calendar month.

9 (8) 'Purchase payments' means payments on the actual  
10 selling price, including any interest, carrying charges,  
11 or other charges associated with a sale. As used herein,  
12 the word 'sale' implies a transfer of ownership of that  
13 which is sold, in exchange for the purchase payments or  
14 promise thereof.

15 (9) 'Rental payments' means any payments made in  
16 exchange for use or rental, and includes interest, carrying  
17 charges, or other charges associated with use or rental.

18 (10) 'Secretary' means the Secretary of the Depart-  
19 ment of Finance.

20 (11) 'Wages' or 'Salaries' means and includes  
21 commissions, fees, compensation, emoluments, bonuses, and  
22 every and all other kinds of compensation paid for,  
23 credited, or attributable to personal services performed  
24 by an individual, which services have been performed  
25 by such person as an employee. Wages and salaries shall

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1 not include the following:

2 (a) wages and salaries received from the  
3 United States by members of the Military or Naval Forces  
4 of the United States or the Armed Forces of the United  
5 States;

6 (b) reasonable per diem and travel allowances  
7 to the extent that they do not exceed any comparable  
8 ~~Trust Territory~~ National or State Government rates;

9 (c) rental value of a home furnished to any  
10 employee or a reasonable rental allowance paid to any  
11 employee (to the extent such allowance is used by the  
12 employee to rent or provide a home);

13 (d) any payment on account of sickness or  
14 accident disability, or any payment of medical or  
15 hospitalization expenses, made by an employer to or on  
16 behalf of an employee; provided, however, that normal  
17 wages or salaries paid to an employee for a period of  
18 time during which he is excused from work because  
19 of sickness shall not be excluded from wages and  
20 salaries under this subsection;

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

24 (f) remuneration paid in any medium other than  
25 cash to an employee for service not in the ordinary

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1 course of the employer's trade or business or for  
2 domestic service in a private home of an employer;

3 (g) remuneration paid for casual or intermit-  
4 tent labor not performed in the ordinary course of the  
5 employer's trade or business and for not more than one  
6 week in each calendar month;

7 (h) any payment in the form of a scholarship,  
8 fellowship, or stipend made to any employee while he is  
9 a full-time, bona fide student at an educational  
10 institution within the ~~Trust Territory~~ Federated States of  
11 Micronesia;

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

15 (j) wages and salaries received by an employee  
16 for services performed or rendered in the capacity of a  
17 domestic or household employee for a private individual or  
18 family; ~~of~~

19 (k) wages and salaries received by an employee,  
20 who is not a citizen of the Federated States of Micronesia,  
21 while employed by an international organization, foreign  
22 contractor, or other foreign entity performing services or  
23 otherwise conducting business in furtherance of a foreign  
24 aid agreement entered into by the Federated States of  
25 Micronesia, the terms of which require that such wages and

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1 salaries shall not be subject to taxation by the Government  
2 of the Federated States of Micronesia; or

3 (1) Wages and salaries received by an employee  
4 for services performed or rendered for the construction or  
5 operation of public projects funded by the National  
6 Government.

7 (12) 'Year' means calendar year."

8 Section 2. The amendments provided for by section 1 of this  
9 act shall be applied retroactively.

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

13  
14 Date: 1/18/87

Introduced by: Jack Fritz  
Jack Fritz

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