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A BILL FOR AN ACT

To amend title 54 of the Code of the Federated States of Micronesia by amending sections 112 and 201 relating to business gross revenue and import taxes, 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
2 Federated States of Micronesia is hereby amended to read as
3 follows:

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

7 (1) 'Business' means any profession, trade,
8 manufacture, 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 either
12 direct or indirect, and excludes casual sales, as determined
13 by the Secretary; however, one who qualifies as an employee
14 under this section shall not be considered as a business.
15 Copra production by unincorporated copra producers
16 collectively or severally shall not be included as a
17 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, corporation,
25 association, joint stock company, bank, insurance company,

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

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

- 21 (a) refunds and rebates;
- 22 (b) moneys held in a fiduciary capacity;
- 23 (c) income in the form of wages and salaries
24 which are taxed under other provisions of this chapter;
- 25 (d) sale payments received for the sale of a

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1 commercial aircraft, to the extent that such sale payments
2 in any quarter shall equal the rental payments made to the
3 buyer by the seller of such aircraft for its rental by
4 seller;

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

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

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

25 (h) payments received from the National or a

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1 State or local government in the Federated States of
2 Micronesia pursuant to a contract for the construction of a
3 project for public use or benefit.

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

9 (7) 'Month' means calendar month.

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

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

19 (10) 'Secretary' means the Secretary of the Department
20 of Finance.

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

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1 person as an employee. Wages and salaries shall not include
2 the following:

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

6 (b) reasonable per diem and travel allowances to
7 the extent that they do not exceed any comparable Trust
8 Territory 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 wages
17 or salaries paid to an employee for a period of time during
18 which he is excused from work because of sickness shall not
19 be excluded from wages and salaries under this subsection;

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

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

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

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

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

12 (j) wages and salaries received by an employee
13 for services performed or rendered in the capacity of a
14 domestic or household employee for a private individual or
15 family; or

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

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

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1 Section 2. Section 201 of title 54 of the Code of the Federated
2 States of Micronesia is hereby amended to read as follows:

3 "Section 201. Import taxes - Levy and rates. The following
4 import taxes are hereby levied on all products specified
5 herein which are imported into the Federated States of
6 Micronesia for resale, except that the taxes levied under
7 subsections (1), (2), (5), (6), and (7) of this section
8 shall apply to products which are imported into the
9 Federated States of Micronesia for personal use and
10 consumption as well as for resale:

11 (1) cigarettes, at the rate of seven cents per every
12 twenty cigarettes, except that any person may bring into any
13 State of the Federated States of Micronesia up to one carton
14 or two hundred cigarettes per trip tax-free, if such
15 cigarettes are for that person's use and consumption and not
16 for resale;

17 (2) tobacco, other than cigarettes, at the rate of
18 fifty percent ad valorem, except that any person may bring
19 into any State of the Federated States of Micronesia up to
20 one pound of tobacco or twenty cigars per trip tax-free, if
21 such tobacco products are for that person's use and
22 consumption and not for resale;

23 (3) perfumery, cosmetics, and toiletries, including
24 cologne and other toilet waters, articles of perfumery,
25 whether in sachets or otherwise, and all preparations used

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1 as applications to the hair or skin, lipsticks, pomades,
2 powders, and other toilet preparations not having medicinal
3 properties, at the rate of twenty-five percent ad valorem;

4 (4) soft drinks and nonalcoholic beverages, at the
5 rate of two cents on each twelve fluid ounces or fractional
6 part thereof;

7 (5) beer and malt beverages, at the rate of four cents
8 per can or bottle of twelve fluid ounces or fractional part
9 thereof;

10 (6) distilled alcoholic beverages, at the rate of
11 seven dollars per wine gallon, except that any person
12 permitted by applicable State law to possess, consume, and
13 use distilled alcoholic beverages, may bring into such State
14 of the Federated States tax free, an amount of liquor not to
15 exceed two-fifths of a wine gallon per trip, if such liquor
16 is for his personal use and consumption and not for resale;

17 (7) wine, at the rate of two dollars per wine gallon,
18 except that this tax shall not apply to any religious
19 organization which is importing or receiving into the
20 Federated States sacramental wine for use in the religious
21 rites of such organization;

22 (8) foodstuffs for human consumption, at the rate of
23 one percent ad valorem;

24 (9) gasoline and diesel fuel, at the rate of five
25 cents per gallon;

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1 (10) all other imported products, except those
 2 specified above and products imported for resale by or to
 3 the National or a State or local government in the Federated
 4 States of Micronesia, at the rate of three percent
 5 ad valorem."

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

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 10 Date: May 10/88

Introduced by: Claude H. Phillip
 Claude H. Phillip
 (by request)

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