AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, regarding taxation, as amended by Public Laws Nos. 5-65, 5-81 and 5-84, by amending sections 112, 113, 124 and 805, and repealing section 806, for the purpose of deleting certain obsolete references to the Trust Territory of the Pacific Islands, for the purpose of eliminating apportionment of salaries or wages, for the purpose of deleting an obsolete transitional section, 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) '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 equity or group employing any person, and also includes the 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.

(5) '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 (11) 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 services, 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;
(d) sale payments received for the sale of a commercial aircraft, to the extent that such sale payments in any quarter shall equal the rental payments made to the buyer by the seller of such aircraft for its rental by seller;
(e) rental payments received for the rental of a commercial aircraft, to the extent that such rental payments in any quarter shall equal the sale payments made to the lessor by lessee of such aircraft for its purchase by the lessor;
(f) 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’; or
(g) gross revenue received by an international organization, foreign contractor, or other foreign entity paid from foreign aid proceeds donated to the Federated States of Micronesia pursuant to a foreign aid agreement entered into by the Federated States of Micronesia, the terms of which require that such gross revenue shall not
be subject to taxation by the Government of the Federated
States of Micronesia.

(6) '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.

(7) 'Month' means calendar month.

(8) '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.

(9) '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.

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

(11) '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
Federated States of Micronesia 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;

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

(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; or

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

(12) 'Year' means calendar year."

Section 2. Section 113 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 113. Taxes collected declared realization of taxes collected and declared realization of the Federated States of Micronesia. The taxes levied, assessed, and collected under and pursuant to this chapter shall be paid to the treasurer of the Federated States of Micronesia and become part of the General Fund of the Federated States of Micronesia as local revenue realization available for appropriation by the Congress of the Federated States of Micronesia."

Section 3. Section 124 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 124. Source of wages. If an employee is credited or paid salaries or wages derived from, or attributable to, personal services performed or rendered both within and without the Federated States of Micronesia, then the whole of the salaries or wages shall be presumed to have been earned within the Federated States of Micronesia."

Section 4. Section 805 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 805. Distribution of revenues.

(1) The treasurer of the Federated States of Micronesia shall pay eighty percent of the net taxes
collected pursuant to section 201(9) of this title, and
fifty percent of all other net taxes collected pursuant to
sections 121, 141, and 201 of this title, into the treasury
of the State government to which the taxes are attributable
for appropriation by the State legislature.

(2) 'Net taxes' as used in subsection (1) of this
section means gross collections of taxes, penalties,
interest, or other related charges less refunds and less
the cost of administration.

(3) 'Cost of administration' as used in subsection
(2) of this section means the cost determined to be
allocatable to each State by the Congress of the Federated
States of Micronesia when making appropriations for the
operating expenses of the Revenue Division.

(4) The revenue office in each State may administer
the taxes of the State in which located, but those duties
shall not interfere with the administration of taxes imposed
by the laws of the Federated States of Micronesia. All
costs in excess of those funded by appropriations of the
Congress of the Federated States of Micronesia required for
the administration of State taxes shall be borne entirely
by the State."

Section 5. Section 806 of title 54 of the Code of the Federated
States of Micronesia is hereby repealed in its entirety.
Section 6. This act shall become law upon approval by the
President of the Federated States of Micronesia or upon its becoming
law without such approval.

Bailey Olter
President
Federated States of Micronesia

1991