A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by further amending section 112, as amended by Public Law No. 7-41, and adding a new section 206 for the purpose of exempting revenue derived from fishing and related business from the gross revenue tax and from the effect of the import tax on fuel, 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, as amended by Public Law No. 7-41, is hereby further 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) 'Fishing or fishing-related business' means the
business of searching for, catching, taking, harvesting,
storing, processing, or transporting fresh fish.

(56) '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 (II12) 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
emolument 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'; 
(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; or

(h) revenue derived from a fishing or fishing-related business, but only until the later to occur of October 1, 2003, or the tenth anniversary of the date on which that business or any of its predecessor businesses began doing business or otherwise operating in the Federated States of Micronesia.

§7 '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.

.§8 'Month' means calendar month.

.§9 '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.

.§10 '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.

(I011) 'Secretary' means the Secretary of the
Department of Finance.

(II12) '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.

(II13) 'Year' means calendar year."

Section 2. Title 54 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 206
of chapter 2 to read as follows:

"Section 206. Exemption or refund for certain fuel
imports.

(1) Any fuel imported into the Federated States of
Micronesia not for resale but for use by the importer in
a fishing or fishing-related business, and as to which
the importer has so certified on a form prescribed by or
acceptable to the Secretary, shall be exempt from import
tax. Thereafter, such fuel may not be resold or used
for any purpose other than in the importer's fishing or
fishing-related business unless and until the import tax
which would have been due but for the exemption has been
paid.

(2) Any fishing or fishing-related business which
purchases fuel on which the import tax levied in this
chapter has already been paid may obtain a refund of
that tax upon submission to the Secretary of
certificates, on forms prescribed by or acceptable to
the Secretary, that the tax has actually been paid
(which certificate shall be signed by the importer who
actually paid the tax) and that the fuel has actually
been used in a fishing or fishing-related business
(which certificate shall be signed by the business which
so used the fuel and is seeking refund of the tax paid).
No fuel importer shall unreasonably refuse to provide a
certificate of actual payment when requested by a fuel
purchaser.

(3) The exemption or refund provided for in this
section shall no longer apply to benefit a particular
fishing or fishing-related business from and after the
later to occur of October 1, 2003, or the tenth
anniversary of the date on which that business or any of
its predecessor businesses began doing business or
otherwise operating in the Federated States of
Micronesia.

(4) As used in this section, the terms 'Secretary' and 'fishing or fishing-related business' shall have the meanings given to them in section 112 of this title."

Section 3. 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: 06-02-98

Introduced by: [Signature]

Joseph N. Chookan
(by request)