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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 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:

1 Section 1. Section 112 of title 54 of the Code of the
2 Federated States of Micronesia, as amended by Public Law No.
3 7-41, is hereby 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,
8 manufacture, or other undertaking carried on for
9 pecuniary profit and includes all activities whether
10 personal, professional, or incorporated, carried on
11 within the Federated States of Micronesia for economic
12 benefit either direct or indirect, and excludes casual
13 sales, as determined by the Secretary; however, one who
14 qualifies as an employee under this section shall not be
15 considered as a business. Copra production by
16 unincorporated copra producers collectively or severally
17 shall not be included as a business under this
18 definition.

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

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

25 (4) 'Employer' includes any individual,

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

9 (5) 'Fishing or fishing-related business' means the
10 business of searching for, catching, taking, harvesting,
11 storing, processing, or transporting fresh fish.

12 (§6) 'Gross revenue' means the gross receipts, cash
13 or accrued, of the taxpayer received as compensation for
14 personal services not in the form of salaries or wages
15 as defined in subsection (1112) of this section, and the
16 gross receipts of the taxpayer derived from trade,
17 business, commerce, or sales and the value proceeding or
18 accruing from the sale of tangible personal property, or
19 services, or both, and all receipts, actual or accrued
20 by reason of the capital of the business engaged in,
21 including interest, rentals, royalties, fees, or other
22 emoluments however designated and without any deductions
23 on account of the cost of property sold, the cost of
24 materials used, labor cost, taxes, royalties, or
25 interest paid or any other expenses whatsoever. Gross

1 revenue shall not include the following:

2 (a) refunds and rebates;

3 (b) moneys held in a fiduciary capacity;

4 (c) income in the form of wages and salaries

5 which are taxed under other provisions of this chapter;

6 (d) sale payments received for the sale of a

7 commercial aircraft, to the extent that such sale

8 payments in any quarter shall equal the rental payments

9 made to the buyer by the seller of such aircraft for its

10 rental by seller;

11 (e) rental payments received for the rental of

12 a commercial aircraft, to the extent that such rental

13 payments in any quarter shall equal the sale payments

14 made to the lessor by lessee of such aircraft for its

15 purchase by the lessor;

16 (f) cash discounts allowed and taken on sales,

17 the proceeds of sale of goods, wares, or merchandise

18 returned by customers when the sale price is refunded

19 either in cash or by credit; or the sale price of any

20 article accepted as part of payment of any new article

21 sold, if the full sale price of a new article is

22 included in 'gross revenue'; ~~or~~

23 (g) gross revenue received by an international

24 organization, foreign contractor, or other foreign

25 entity paid from foreign aid proceeds donated to the

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1 Federated States of Micronesia pursuant to a foreign aid
2 agreement entered into by the Federated States of
3 Micronesia, the terms of which require that such gross
4 revenue shall not be subject to taxation by the
5 Government of the Federated States of Micronesia; or
6 (h) revenue derived from a fishing or fishing-
7 related business, but only until the later to occur of
8 October 1, 2003, or the tenth anniversary of the date on
9 which that business or any of its predecessor businesses
10 began doing business or otherwise operating in the
11 Federated States of Micronesia.

12 (77) 'Military or Naval Forces of the United States'
13 and 'Armed Forces of the United States' means all
14 regular and reserve components of the uniformed services
15 which are subject to the jurisdiction of the Secretary
16 of the Army, Navy, or Air Force, and also includes the
17 Coast Guard.

18 (78) 'Month' means calendar month.

19 (79) 'Purchase payments' means payments on the
20 actual selling price, including any interest, carrying
21 charges, or other charges associated with a sale. As
22 used herein, the word 'sale' implies a transfer of
23 ownership of that which is sold, in exchange for the
24 purchase payments or promise thereof.

25 (810) 'Rental payments' means any payments made in

1 exchange for use or rental, and includes interest,
 2 carrying charges, or other charges associated with use
 3 or rental.

4 (1011) 'Secretary' means the Secretary of the
 5 Department of Finance.

6 (1112) 'Wages' or 'Salaries' means and includes
 7 commissions, fees, compensation, emoluments, bonuses,
 8 and every and all other kinds of compensation paid for,
 9 credited, or attributable to personal services performed
 10 by an individual, which services have been performed by
 11 such person as an employee. Wages and salaries shall
 12 not include the following:

13 (a) wages and salaries received from the
 14 United States by members of the Military or Naval Forces
 15 of the United States or the Armed Forces of the United
 16 States;

17 (b) reasonable per diem and travel
 18 allowances to the extent that they do not exceed any
 19 comparable Federated States of Micronesia Government
 20 rates;

21 (c) rental value of a home furnished to any
 22 employee or a reasonable rental allowance paid to any
 23 employee (to the extent such allowance is used by the
 24 employee to rent or provide a home);

25 (d) any payment on account of sickness or

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1 accident disability, or any payment of medical or
2 hospitalization expenses, made by an employer to or on
3 behalf of an employee; provided, however, that normal
4 wages or salaries paid to an employee for a period of
5 time during which he is excused from work because of
6 sickness shall not be excluded from wages and salaries
7 under this subsection;

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

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

14 (g) remuneration paid for casual or
15 intermittent labor not performed in the ordinary course
16 of the employer's trade or business and for not more
17 than one week in each calendar month;

18 (h) any payment in the form of a scholarship,
19 fellowship, or stipend made to any employee while he is
20 a full-time, bona fide student at an educational
21 institution;

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

25 (j) wages and salaries received by an

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1 employee for services performed or rendered in the
2 capacity of a domestic or household employee for a
3 private individual or family; or

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

14 (1213) 'Year' means calendar year."

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

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

20 (1) Any fuel imported into the Federated States of
21 Micronesia not for resale but for use by the importer in
22 a fishing or fishing-related business, and as to which
23 the importer has so certified on a form prescribed by or
24 acceptable to the Secretary, shall be exempt from import
25 tax. Thereafter, such fuel may not be resold or used

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1 for any purpose other than in the importer's fishing or
2 fishing-related business unless and until the import tax
3 which would have been due but for the exemption has been
4 paid.

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

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

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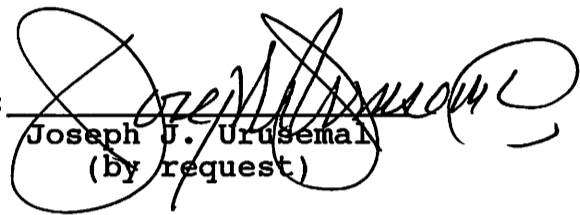
Micronesia.

(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:


Joseph J. Uruseman
(by request)