

AN ACT

To further amend section 112 of title 54 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 10-93, 10-149, 12-18, 14-40 and 14-90, to permit certain deductions for purposes of the Gross Revenue Tax, 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 Laws Nos.
3 10-93, 10-149, 12-18, 14-40 and 14-90, is hereby further amended
4 to read as follows:

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

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

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

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

7 (4) 'Employer' includes any individual, corporation,
8 association, joint stock company, bank, insurance
9 company credit union, cooperative, or other equity or
10 group employing any person, and also includes the
11 Federated States of Micronesia, State and local
12 governments, and their agencies, charged with the
13 disbursement of public moneys as salaries or wages.
14 'Employer' also includes the United States Government
15 and instrumentalities thereof.

16 (5) 'Gross revenue' means the gross receipts, cash
17 or accrued, of the taxpayer received as compensation for
18 personal services and the gross receipt of the taxpayer
19 derived from trade, business, commerce, or sales and the
20 value proceeding or accruing from the sale of tangible
21 personal property, or services, or both, and all
22 receipts, actual or accrued by reason of the capital of
23 the business engaged in, including interest, rentals,
24 royalties, fee, or other emoluments however designated
25 and without any deductions on account of the cost of

1 property sold, the cost of materials used, taxes,
2 royalties, or interest paid or nay other expenses
3 whatsoever. Gross revenue shall not include the
4 following:

5 (a) refunds and rebates;

6 (b) moneys held in a fiduciary capacity;

7 (c) wages and salaries, received by the
8 taxpayer, which are taxed under other provisions of this
9 chapter;

10 (d) sales payments received for the sale of a
11 commercial aircraft, to the extent that such sale
12 payments in any quarter shall equal the rental payments
13 made to the buyer/lessor by the seller/lessee of such
14 aircraft for its rental by the seller/lessee;

15 (e) rental payments received for the rental of a
16 commercial aircraft, to the extent that such rental
17 payments in any quarter shall equal the sale payments
18 made to the seller/ lessee by the buyer/lessor of such
19 aircraft for its purchase by the buyer/lessor;

20 (f) cash discounts allowed and taken on sales,
21 the proceeds of sale of goods, wares, or merchandise
22 returned by customers when the sale price is refunded
23 either in cash or by credit; or the sale price of any
24 article accepted as part of payment of any new article
25 sold, if the full sale price of a new article is

1 included in 'gross revenue';

2 (g) funds received by an international
3 organization, foreign contractor, or other foreign
4 entity paid from foreign aid proceeds donated to the
5 Federated States of Micronesia pursuant to a foreign aid
6 agreement entered into by the Federated States of
7 Micronesia, the terms of which require that such gross
8 revenue shall not be subject to taxation by the
9 Government of the Federated States of Micronesia;

10 (h) proceeds of export sales of tangible
11 personal property produced or manufactured in the
12 Federated States of Micronesia and delivered to a buyer
13 outside the Federated States of Micronesia;

14 (i) proceeds of sales of products of a
15 processing facility in the Federated States of
16 Micronesia, which are subsequently exported from, and
17 not used in, the Federated States of Micronesia;

18 (j) proceeds of sales of fish by foreign or
19 domestic fishing vessels to processing facilities within
20 the Federated States of Micronesia; or

21 (k) proceeds of sales of bait fish to foreign or
22 domestic fishing vessels;

23 (l) proceeds from (i) recycling waste paper,
24 plastic, aluminum, tin or other scrap metal, or glass so
25 that such materials may be re-used, (ii) removing such

1 waste materials, motor vehicles, appliances, batteries,
2 paint or toxic chemicals from the Federated States of
3 Micronesia for disposal or recycling; or (iii)
4 collecting such waste materials, motor vehicles,
5 appliances, batteries, paint or toxic chemicals for the
6 purposes of removal from the Federated States of
7 Micronesia for recycling or disposal.

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

14 (7) 'Month' means calendar month.

15 (8) 'Taxable Gross Revenues' shall mean, for any tax
16 period, the figure calculated by deducting from the
17 Gross Revenues for the period, the following expenses of
18 the business for the period:

19 (a) wages, salaries and benefits reasonably paid
20 by the taxpayer to or on behalf of employees of the
21 business for personal services relating to producing the
22 Gross Revenues, as such wages and salaries are reported
23 pursuant to subchapter III of chapter 1 of title 54 of
24 the Code of the Federated States of Micronesia; and

25 (b) Social Security contributions by the

1 business in respect of its employees pursuant to section
2 902 of title 53 of the Code of the Federated States of
3 Micronesia;"

4 (c) Electric utility and water utilities costs
5 paid by the business which are directly related to
6 business operations;

7 (d) Communication expenses paid by the business
8 which are directly related to business operations.

9 (9) 'Processing facility' means a business that
10 prepares, alters, and/or packages raw materials into a
11 finished product for resale.

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

18 (11) 'Rental payments' means any payments made in
19 exchange for use or rental, and includes interest,
20 carrying charges, or other changes associated with use
21 or rental.

22 (12) 'Secretary' means the Secretary of the Department
23 of Finance and Administration.

24 (13) 'Wages' or 'Salaries' means and includes
25 commissions, fees, compensation, emoluments, bonuses,

1 and every and all other kinds of compensation paid for,
2 or credited or attributable to, personal services
3 performed by an individual, which services have been
4 performed by such person as an employee. Wages and
5 salaries shall not include the following:

6 (a) any payment received from the United States
7 by members of the Military or Naval Forces of the United
8 States or the Armed Forces of the United States;

9 (b) reasonable per diem and travel allowances to
10 the extent that they do not exceed any comparable
11 Federated States of Micronesia Government rates;

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

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

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

1 (f) remuneration paid in any medium other than
2 cash to an employee for service not in the ordinary
3 course of the employer's trade or business;

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

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

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

15 (j) any payment received by an employee for
16 services performed as a domestic or household employee
17 for a private individual or family;

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

