

AN ACT

To further amend section 112 of title 54 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 18-118, 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 (Annotated), as amended by Public  
3 Law No. 18-118, 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 capable  
20 of and intended for use in commercial aviation.

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

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

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

- 1           whatsoever. Gross revenue shall not include the  
2           following:
- 3                   (a) refunds and rebates;
- 4                   (b) moneys held in a fiduciary capacity;
- 5                   (c) wages and salaries, received by the  
6           taxpayer, which are taxed under other provisions of this  
7           chapter;
- 8                   (d) sales payments received for the sale of a  
9           commercial aircraft, to the extent that such sale  
10          payments in any quarter shall equal the rental payments  
11          made to the buyer/lessor by the seller/lessee of such  
12          aircraft for its rental by the seller/lessee;
- 13                  (e) rental payments received for the rental of a  
14          commercial aircraft, to the extent that such rental  
15          payments in any quarter shall equal the sale payments  
16          made to the seller/ lessee by the buyer/lessor of such  
17          aircraft for its purchase by the buyer/lessor;
- 18                  (f) cash discounts allowed and taken on sales,  
19          the proceeds of sale of goods, wares, or merchandise  
20          returned by customers when the sale price is refunded  
21          either in cash or by credit; or the sale price of any  
22          article accepted as part of payment of any new article  
23          sold, if the full sale price of a new article is  
24          included in 'gross revenue';
- 25                  (g) funds received by an international

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

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

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

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

19 (k) proceeds of sales of bait fish to foreign or  
20 domestic fishing vessels;

21 (l) proceeds from (i) recycling waste paper,  
22 plastic, aluminum, tin or other scrap metal, or glass so  
23 that such materials may be re-used, (ii) removing such  
24 waste materials, motor vehicles, appliances, batteries,  
25 paint or toxic chemicals from the Federated States of

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

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

12          (7) 'Month' means calendar month.

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

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

23                 (b) Social Security contributions by the  
24                 business in respect of its employees pursuant to section  
25                 902 of title 53 of the Code of the Federated States of

1           Micronesia;

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

5                   (d) Communication expenses paid by the business  
6           which are directly related to business operations~~[.]~~;  
7           and

8                   (e) Contributions made by the business on behalf  
9           of their employees towards the employees' MiCare health  
10          insurance plan.

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

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

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

24                  (12) 'Secretary' means the Secretary of the Department  
25          of Finance and Administration.

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

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

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

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

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

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

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

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

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

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

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

20                  (k) any payment received by an employee, who is  
21                  not a citizen of the Federated States of Micronesia,  
22                  while employed by an international organization, foreign  
23                  contractor, or other foreign entity performing services  
24                  or otherwise conducting business in furtherance of a  
25                  foreign aid agreement entered into by the Federated

1 States of Micronesia, the terms of which require that  
2 such wages and salaries shall not be subject to taxation  
3 by the Government of the Federated States of Micronesia;  
4 or

5 (1) the foreign service premium authorized by section  
6 163 of title 52 of the Code of the Federated States of  
7 Micronesia.

8 Section 2. The provisions of this act shall take effect  
9 January 1, 2021.

10 Section 3. This act shall become law upon approval by the  
11 President of the Federated States of Micronesia or upon its  
12 becoming law without such approval.

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April 29 \_\_\_\_\_, 2021

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/s/ David W. Panuelo  
David W. Panuelo  
President  
Federated States of Micronesia

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