

FOURTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

SECOND SPECIAL SESSION, 1986

CONGRESSIONAL BILL NO. 4-203, C.D.1

AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended by Public Law No. 4-32, by amending section 112 for the purpose of providing for certain exceptions to the definitions of "gross revenue" and "wages and salaries" as required by the terms of foreign aid agreements entered into by the Federated States of Micronesia, 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 Federated
2 States of Micronesia is hereby amended to read as follows:

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

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

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

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

21 (4) 'Employer' includes any individual, corporation,
22 association, joint stock company, bank, insurance company,

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

7 (5) 'Gross revenue' means the gross receipts, cash or
8 accrued, of the taxpayer received as compensation for personal
9 services not in the form of salaries or wages as defined in
10 subsection (11) of this section, and the gross receipts of the
11 taxpayer derived from trade, business, commerce, or sales and
12 the value proceeding or accruing from the sale of tangible
13 personal property, or services, or both, and all receipts,
14 actual or accrued by reason of the capital of the business
15 engaged in, including interest, rentals, royalties, fees, or
16 other emoluments however designated and without any deductions
17 on account of the cost of property sold, the cost of materials
18 used, labor cost, taxes royalties, or interest paid or any
19 other expenses whatsoever. Gross revenue shall not include
20 the following:

- 21 (a) refunds and rebates;
22 (b) moneys held in a fiduciary capacity;
23 (c) income in the form of wages and salaries which
24 are taxed under other provisions of this chapter;
25 (d) sale payments received for the sale of a

1 commercial aircraft, to the extent that such sale payments in
2 any quarter shall equal the rental payments made to the buyer
3 by the seller of such aircraft for its rental by seller;

4 (e) rental payments received for the rental of a
5 commercial aircraft, to the extent that such rental payments
6 in any quarter shall equal the sale payments made to the lessor
7 by lessee of such aircraft for its purchase by the lessor;

8 (f) cash discounts allowed and taken on sales, the
9 proceeds of sale of goods, wares, or merchandise returned by
10 customers when the sale price is refunded either in cash or by
11 credit; or the sale price of any article accepted as part of
12 payment of any new article sold, if the full sale price of a
13 new article is included in 'gross revenue'; or

14 (g) gross revenue received by an international
15 organization, foreign contractor, or other foreign entity paid
16 from foreign aid proceeds donated to the Federated States of
17 Micronesia pursuant to a foreign aid agreement entered into by
18 the Federated States of Micronesia, the terms of which require
19 that such gross revenue shall not be subject to taxation by the
20 Government of the Federated States of Micronesia.

21 (6) 'Military or Naval Forces of the United States' and
22 'Armed Forces of the United States' means all regular and
23 reserve components of the uniformed services which are subject
24 to the jurisdiction of the Secretary of the Army, Navy, or Air
25 Force, and also includes the Coast Guard.

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1 (7) 'Month' means calendar month.

2 (8) 'Purchase payments' means payments on the actual
3 selling price, including any interest, carrying charges, or
4 other charges associated with a sale. As used herein, the
5 word 'sale' implies a transfer of ownership of that which is
6 sold, in exchange for the purchase payments or promise thereof.

7 (9) 'Rental payments' means any payments made in exchange
8 for use or rental, and includes interest, carrying charges, or
9 other charges associated with use or rental.

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

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

18 (a) wages and salaries received from the United
19 States by members of the Military or Naval Forces of the
20 United States or the Armed Forces of the United States;

21 (b) reasonable per diem and travel allowances to
22 the extent that they do not exceed any comparable Trust
23 Territory Government rates;

24 (c) rental value of a home furnished to any
25 employee or a reasonable rental allowance paid to any

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1 employee (to the extent such allowance is used by the
2 employee to rent or provide a home);

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

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

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

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

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

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

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1 organization;

2 (j) wages and salaries received by an employee for
3 services performed or rendered in the capacity of a domestic
4 or household employee for a private individual or family; or

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


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

15 Section 2. The amendments provided for by section 1 of this act
16 shall be applied retroactively.

17 Section 3. This act shall become law upon approval by the President
18 of the Federated States of Micronesia or upon its becoming law without
19 such approval.

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December 24, 1986



Tosiwo Nakayama
President
Federated States of Micronesia