

AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending section 112 to exempt from gross revenue tax, the sale of fish by foreign or domestic fishing vessels to processing facilities in the FSM and the sale of bait fish to foreign or domestic fishing vessels, to make numerous technical corrections, 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. 10-
3 93 and 10-149, 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

1 definition.

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

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

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

17 (5) 'Gross revenue' means the gross receipts, cash or
18 accrued, of the taxpayer received as compensation for
19 personal services and the gross receipts of the taxpayer
20 derived from trade, business, commerce, or sales and the
21 value proceeding or accruing from the sale of tangible
22 personal property, or services, or both, and all
23 receipts, actual or accrued by reason of the capital of
24 the business engaged in, including interest, rentals,

1 royalties, fees, or other emoluments however designated
2 and without any deductions on account of the cost of
3 property sold, the cost of materials used, labor cost,
4 taxes, royalties, or interest paid or any other expenses
5 whatsoever. Gross revenue shall not include the
6 following:

7 (a) refunds and rebates;

8 (b) moneys held in a fiduciary capacity;

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

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

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

21 (f) cash discounts allowed and taken on sales,
22 the proceeds of sale of goods, wares, or merchandise
23 returned by customers when the sale price is refunded
24 either in cash or by credit; or the sale price of any

1 article accepted as part of payment of any new article
2 sold, if the full sale price of a new article is
3 included in 'gross revenue';

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

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

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

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

23 (k) proceeds of sales of bait fish to foreign or
24 domestic fishing vessels.

1 (6) 'Military or Naval Forces of the United States'
2 and 'Armed Forces of the United States' means all
3 regular and reserve components of the uniformed services
4 which are subject to the jurisdiction of the Secretary
5 of the Army, Navy, or Air Force, and also includes the
6 Coast Guard.

7 (7) 'Month' means calendar month.

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

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

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

21 (11) 'Secretary' means the Secretary of the Department
22 of Finance and Administration.

23 (12) 'Wages' or 'Salaries' means and includes
24 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

1 employee or to his beneficiary from a trust or annuity;

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

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

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

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

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

19 (k) any payment received by an employee, who is
20 not a citizen of the Federated States of Micronesia,
21 while employed by an international organization, foreign
22 contractor, or other foreign entity performing services
23 or otherwise conducting business in furtherance of a
24 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
6 section 163 of title 52 of the Code of the Federated
7 States of Micronesia.

8 (13) 'Year' means calendar year."

9 Section 2. This act shall become law upon approval by the
10 President of the Federated States of Micronesia or upon its
11 becoming law without such approval.

12

13

14

December 3, 2001

15

16

17

/s/ Leo A. Falcam

18

Leo A. Falcam
President
Federated States of Micronesia