

AN ACT

To revise Part I of Title 77 of the Trust Territory Code, Taxation, by amending Sections 154, 155, 250, 251, 253, 257, 259, 260, 262, 268, 269 and 270 thereof, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Part I of Title 77 of the Trust Territory Code, Taxation, is
2 hereby revised by amending Sections 154, 155, 250, 251, 253, 257, 259, 260,
3 262, 268, 269 and 270 as follows:

4 (1) "Section 154. Rules and regulations--Promulgation by Director
5 of Finance. The Director of Finance, with the approval of the
6 President of the Federated States of Micronesia, shall prescribe
7 such rules and regulations as are necessary to collect all taxes,
8 fees and charges levied or imposed under this Part and all such
9 taxes, fees and charges shall be deposited in the General Fund of
10 the Federated States of Micronesia for appropriation by the Congress
11 of the Federated States of Micronesia. Such rules and regulations
12 shall wherever practicable require payment in full of all taxes,
13 fees and charges immediately upon assessment, and in the case of
14 import taxes, no later than fifteen days after the departure of the
15 vessel or plane on which the products subject to import taxes
16 arrived and before any merchandise is released by the carrier or
17 his agent to the importer and, in the case of export taxes, before
18 any merchandise is loaded on any vessel or aircraft."

19 (2) "Section 155. Transactions to be recorded--Penalties for
20 violations. Every person, firm, corporation, or association
21 engaging in any transaction subject to a tax, fee or charge levied
22 or imposed under this Part shall keep a full and accurate record of

1 each such transaction engaged in by him and such record shall be
2 available for examination by the Director of Finance or his
3 authorized representative for at least three years after the date
4 of such transaction. Any person, firm, corporation or association
5 willfully failing to keep or make available for examination such
6 records shall be guilty of a misdemeanor and upon conviction thereof
7 shall be punished in accordance with the terms of Section 201,
8 Chapter 9 of this Part, and, in addition thereto, shall be subject
9 to the immediate revocation of any relevant existing license to do
10 business in the Federated States of Micronesia."

11 (3) "Section 250. Short title. This Chapter shall be entitled the
12 'Federated States of Micronesia Income Tax Law'."

13 (4) "Section 251. Definitions. Wherever used in this Chapter,
14 unless the subject matter, context, or sense otherwise requires:

15 (1) 'Employer' includes any individual, corporation,
16 association, joint stock company, bank, insurance company, credit
17 union, cooperative, or other equity or group employing any person,
18 and also includes the Trust Territory, Federated States of Micronesia,
19 state and local governments and their agencies, charged with the
20 disbursement of public monies as salaries or wages. 'Employer' also
21 includes the United States Government and instrumentalities thereof.

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

25 (3) 'Wages' or 'Salaries' means and includes commissions, fees,

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

6 (a) Wages and salaries received from the United States
7 by members of the Military or Naval Forces of the United States or
8 the Armed Forces of the United States.

9 (b) Reasonable per diem and travel allowances to the
10 extent that they do not exceed any comparable Trust Territory
11 Government rates.

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

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

22 (e) Any payment made to or on behalf of an employee or
23 to his beneficiary from a trust or annuity.

24 (f) Remuneration paid in any medium other than cash to
25 an employee for service not in the ordinary course of the employer's

1 trade or business or for domestic service in a private home of an
2 employer.

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

6 (h) Any payment in the form of a scholarship, fellow-
7 ship, or stipend made to any employee while he is a full-time, bona
8 fide student at an educational institution within the Trust Terri-
9 tory.

10 (i) Wages and salaries received by a minister of the
11 gospel or clergyman from a religious group or organization.

12 (j) Wages and salaries received by an employee for
13 services performed or rendered in the capacity of a domestic or
14 household employee for a private individual or family.

15 (k) Wages and salaries received by a non-Trust Territory
16 citizen employee for services performed or rendered within the Trust
17 Territory for a total of not more than ninety days or less during
18 any one calendar year.

19 (4) 'Director' means the Director of the Department of
20 Finance.

21 (5) 'Month' means calendar month.

22 (6) 'Year' means calendar year.

23 (7) 'Gross Revenue' means the gross receipts, cash or
24 accrued, of the taxpayer received as compensation for personal
25 services not in the form of salaries or wages as defined in 77 TTC

1 Section 251 (3), as amended, and the gross receipts of the tax-
2 payer derived from trade, business, commerce or sales and the
3 value proceeding or accruing from the sale of tangible personal
4 property, or service, or both, and all receipts, actual or accrued
5 by reason of the capital of the business engaged in, including
6 interest, discount, rentals, royalties, fees, or other emoluments
7 however designated and without any deductions on account of the
8 cost of property sold, the cost of materials used, labor cost,
9 taxes, royalties, interest or discount paid or any other expenses
10 whatsoever. Gross revenue shall not include the following:

11 (a) refunds, rebates and returns;

12 (b) monies held in a fiduciary capacity;

13 (c) income in the form of wages and salaries which are
14 taxed under other provisions of this Chapter;

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

19 (e) rental payments received for the rental of a
20 commercial aircraft, to the extent that such rental payments in
21 any quarter shall equal the sale payments made to the lessor by
22 lessee of such aircraft for its purchase by the lessor.

23 (8) 'Business' means any profession, trade, manufacture or
24 other undertaking carried on for pecuniary profit and includes
25 all activities whether personal, professional or incorporated,

1 carried on within the Federated States of Micronesia for economic
2 benefit either direct or indirect, and excludes casual sales, as
3 determined by the Director; however, one who qualifies as an employee
4 under this Section shall not be considered as a business. Copra
5 production by unincorporated copra producers collectively or
6 severally shall not be included as a business under this definition.

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

12 (10) 'Commercial aircraft' means any aircraft capable of any
13 intended for use in commercial aviation.

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

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

22 (5) "Section 253. Withholding by the employer. The tax imposed
23 by Section 252 of this Title shall be collected by the employer
24 by deducting and withholding the tax imposed on any wages and
25 salaries as and when paid or credited to the employee. Every

1 employer required to deduct and withhold the tax imposed shall be
2 liable for the payment and shall pay such tax to the National
3 Revenue Officer of the state in which the employer has his princi-
4 pal place of business, or to the Director, if the employer has
5 no place of business in the Federated States of Micronesia. Any
6 employer who violates any of the provisions of this Section shall
7 be subject to the penalties prescribed in this Chapter."

8 (6) "Section 257. Individual to file return of earned income.
9 Any individual who is paid or credited wages or salaries from an
10 employer who does not have a place of business in the Federated
11 States of Micronesia and does not have an agent within the
12 Federated States of Micronesia responsible for making the returns,
13 withholdings and payments of taxes on compensation required by
14 this Chapter, shall file a return with and pay the tax due under
15 this Chapter to, the National Revenue Officer of the state in
16 which he resides or in which he is present at the time for payment
17 as may be required by the rules of the Director, or, if he is not
18 at the time within the Federated States of Micronesia, then with and
19 to the Director. Any individual who is paid or credited wages
20 from the United States or an instrumentality thereof shall be
21 under the same duty as an individual who is paid or credited wages
22 or salaries from an employer who does not have a place of business
23 in the Federated States of Micronesia, unless the tax has been
24 withheld from such salaries and wages as provided by 77 TTC
25 Section 253 of this Chapter.

1 All such returns shall be filed, and the payments thereon
2 shall be made, at the times and in the manner prescribed in 77 TTC
3 Section 253 and 77 TTC Section 254 (1) of this Chapter and each
4 return shall state the name of the individual filing the same,
5 the name, residence and address of his employer, the total of all
6 compensation received for the preceding three months and the tax
7 due thereon, and shall include such other information and be upon
8 such form as the Director shall require or prescribe.

9 Failure to comply with the provisions of this Section shall
10 be punishable under the penalties prescribed in this Chapter. The
11 Director, upon request of a taxpayer required by this Section to
12 make returns, may permit semiannual returns and payments of tax
13 with respect to salaries and wages, and in granting such permission shall fix
14 shall fix the date or dates for such filing of returns and payment
15 of taxes. The Director, for good cause, may extend the time for
16 making returns and payments, but not beyond the twentieth day of
17 the second month succeeding the regular due date thereof."

18 (7) "Section 259. Returns, withholdings, and payment of tax on
19 gross revenue from businesses.

20 (1) Every business, on or before the last day of the month
21 following the close of each quarter, to wit: on or before
22 April 30, July 31, October 31, January 31, shall pay, based on its
23 gross revenue of the preceding quarter, the amount of tax imposed
24 by this Chapter to the National Revenue Officer in the state in
25 which the business has its principal place of business in the

1 Federated States of Micronesia, or to the Director. Each business
2 shall, on or before the date provided for payment of tax under
3 this Subsection, make a full, true, and correct return showing all
4 such gross revenue received, accrued, or earned, and the amounts ~~dedu~~
5 deducted and set aside on account thereof during the preceding
6 quarter, which return shall be filed at the place in this Section
7 prescribed for payment of the tax and shall include such other
8 information as shall be required or prescribed by the Director.
9 The Director, for good cause, may extend the time for making
10 payments and returns, but not beyond the last day of the first
11 month succeeding the regular due date thereof.

12 (2) Every business shall be liable for the payment of the
13 tax required to be deducted and paid by it to the Government.

14 (3) Failure to comply with the provisions of this Section
15 shall be punishable under the penalties prescribed by this
16 Chapter."

17 (8) "Section 260. Apportionment.

18 (1) If an employee is credited or paid salaries or wages
19 derived from, or attributable to, personal services performed or
20 rendered both within and without the Federated States of Micro-
21 nesia during any given month, then the whole of the salaries or
22 wages shall be presumed to have been earned within the Federated
23 States of Micronesia; provided, however, that the employer paying
24 the tax or the employee whose compensation is taxed may file for
25 an apportionment of the tax on a form prescribed by the Director

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1 and the tax shall be levied only on that portion of the salary or
2 wages which is attributable to personal services performed or
3 rendered within the Federated States of Micronesia.

4 (2) If any business earns or derives its gross revenue from
5 business activities or undertakings both within and without the
6 Federated States of Micronesia during the taxable year, then the
7 whole of its gross revenue shall be presumed to have been derived
8 from sources within the Federated States of Micronesia; provided,
9 however, that the business may file for an apportionment of the
10 tax on a form prescribed by the Director and the tax shall be
11 levied only on that portion which is earned in, or derived from
12 sources or transactions or parts of transactions within the
13 Federated States of Micronesia."

14 (9) "Section 262. Regulations. The Director shall, subject to
15 approval of the President of the Federated States of Micronesia,
16 prescribe and have printed reasonable regulations for the enforce-
17 ment of this Chapter and such regulations shall have the force and
18 and effect of law if they are not in conflict with the express
19 provisions of this Chapter or other laws of the Federated States
20 of Micronesia. Such regulations shall also provide for the making
21 of returns concerning any taxes imposed by this Chapter, and the
22 payment thereof, in any situations not specifically covered by
23 this Chapter."

24 (10) "Section 268. Review.

25 (1) If a decision of the Director is adverse to the taxpayer,

1 in whole or in part, the taxpayer shall have the right within one
2 year from the date of such decision to institute an action for
3 review, irrespective of the amount, in a court of competent juris-
4 diction in the Federated States of Micronesia. Such action shall
5 be commenced by filing a petition setting forth assignments of all
6 errors alleged to have been committed by the Director in his deter-
7 mination of the assessment, the facts relied upon to sustain such
8 assignments of errors, and a prayer for appropriate relief. The
9 The Director or his successor in office shall be the defendant in
10 such proceedings.

11 (2) When the decision of the Court or an appeal therefrom
12 becomes final, the Director shall, upon presentation of a certified
13 copy of the decree, make such adjustments as are necessary to
14 correct, amend or abate the assessment, and to determine whether
15 any additional amount should be assessed.

16 (3) Where the assessment is paid, in whole or in part,
17 after the filing of the petition, the Court shall not thereby be
18 deprived of jurisdiction."

19 (11) "Section 269. Privileged information.

20 (1) All reports and returns required by this Chapter shall
21 be preserved for three years and thereafter until the Director
22 orders them to be destroyed.

23 (2) The Director and every employee of the Department of
24 Finance shall maintain the secrecy of all matters relating to
25 this Chapter which come to their knowledge and shall not

1 communicate such matters to any person except for the purpose of
2 carrying into effect this Chapter or any other enactment imposing
3 taxes or duties payable to the Government of the Federated States
4 of Micronesia.

5 (3) The Director and every employee of the Department of
6 Finance while in such employment shall not engage in the business
7 or profession of tax accounting or accept employment with compensa-
8 tion from any person, firm, or corporation for the purpose, directly
9 or indirectly, of preparing the tax returns required by the
10 Government of the Federated States of Micronesia. Nor shall such per-
11 son accept any employment for the purpose of advising or
12 preparing materials or data, or the auditing of books or records
13 to be used in an effort to defeat or cancel any tax or part thereof
14 that has been assessed by the Government of the Federated States
15 of Micronesia.

16 (4) No employee of the Department of Finance shall be
17 required to produce in any court any matter or thing relating to
18 the taxes imposed by this Chapter coming under his notice in the
19 performance of his duties as an employee of the Revenue Division
20 except when it is necessary to do so for the purpose of carrying
21 into effect any provision of this Chapter or any other enactment
22 imposing duties or taxes payable to the Government of the Federated
23 States of Micronesia.

24 (5) Information as to the amount of income or any particular
25 set forth or disclosed in any report or return required under this

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1 Chapter may, upon request of a committee appointed by the Congress
2 of the Federated States of Micronesia, be furnished to the committee,
3 but the committee or any member, clerk, or other officer or employee
4 thereof shall not disclose any particulars of the information so
5 furnished except to law enforcement officers for the purpose of
6 aiding the detection or prosecution of crimes committed in violation
7 of this Chapter.

8 (6) The Attorney General or other legal representatives of
9 the Government of the Federated States of Micronesia may inspect
10 the report of return of any taxpayer who brings an action to set
11 aside or review the tax based thereon, or against whom an action
12 or proceeding has been instituted to recover any tax or any penalty
13 imposed by this Chapter.

14 (7) Nothing herein shall prohibit the Director or his
15 delegate from compiling and publishing statistics or information
16 generally on the returns filed so long as there is no reference
17 to a particular return and the statistics and the information do
18 not in effect divulge the contents of any one return.

19 (8) Any violation of Subsections (2), (3), (4), or (5) of
20 this Section shall be a misdemeanor and shall be punishable by a
21 fine of not more than \$500 or imprisonment for not more than six
22 months, or both."

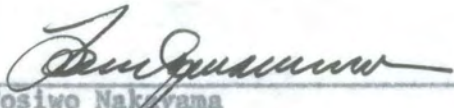
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1 Section 2. This act shall take effect upon approval by the President
2 of the Federated States of Micronesia, or upon its becoming law without such
3 approval.

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February 7, 1980



Tosiwo Nakayama
President
Federated States of Micronesia