

By: Representative Moak

To: Ways and Means

HOUSE BILL NO. 225

1 AN ACT TO ALLOW DEDUCTIONS IN COMPUTING TAXABLE INCOME FOR
2 INCOME TAXES TO INDIVIDUALS COMPLETING HIGH SCHOOL OR COLLEGE, OR
3 BOTH, IN THIS STATE; TO AMEND SECTION 27-7-17, MISSISSIPPI CODE OF
4 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. (1) For any individual, there shall be allowed
7 as deductions in computing taxable income under this chapter, such
8 amounts as follows:

9 (a) One Thousand Dollars (\$1,000.00) for being
10 graduated from an accredited public or private high school in this
11 state;

12 (b) One Thousand Dollars (\$1,000.00) for being
13 graduated from an accredited public or private junior college or
14 community college in this state; and

15 (c) One Thousand Dollars (\$1,000.00) for being
16 graduated from an accredited public or private institution of
17 higher learning in this state, except the deduction under this
18 item (c) shall be Two Thousand Dollars (\$2,000.00) if the
19 deduction under item (b) is inapplicable.

20 (2) The deductions described under subsection (1) of this
21 section shall be allowed to individuals who are graduated during
22 1999 or any year thereafter; however, the deduction for amounts
23 under item (a), (b) or (c) of subsection (1) of this section shall
24 be allowed to an individual only once and for one (1) taxable year
25 only. The deduction or deductions allowed to an individual shall
26 not be allowed for any taxable year:

27 (a) Which is more than three (3) years after such

28 individual is graduated from an accredited public or private high
29 school in this state; or

30 (b) Which is more than three (3) years after such
31 individual ceases to be a full-time student at any accredited
32 public or private institution of higher learning in this state, if
33 within three (3) years after having been graduated from high
34 school, such individual continues his education at an accredited
35 public or private junior college, community college or institution
36 of higher learning in this state.

37 The individual allowed the deduction or deductions under
38 subsection (1) of this section may assign all deductions for which
39 he is entitled to a parent, parents or a legal guardian.

40 An individual shall be deemed to have been graduated from an
41 institution of higher learning on the date of final completion of
42 all courses, hours or credits required for graduation. An
43 individual shall be deemed to have been graduated from a junior
44 college or community college on the date of final completion of
45 all courses, hours or credits required for graduation. Completion
46 of General Education Development (GED) in this state shall be
47 deemed to be graduation from an accredited high school in this
48 state.

49 (3) A nonresident individual shall be allowed the same
50 deductions under this section as are authorized for resident
51 individuals; however, the nonresident individual is entitled only
52 to that proportion of the deductions as his net income from
53 sources within the State of Mississippi bears to his total or
54 entire net income from all sources.

55 SECTION 2. Section 27-7-17, Mississippi Code of 1972, is
56 amended as follows:

57 27-7-17. In computing taxable income, there shall be allowed
58 as deductions:

59 (1) **Business deductions.**

60 (a) Business expenses. All the ordinary and necessary

61 expenses paid or incurred during the taxable year in carrying on
62 any trade or business, including a reasonable allowance for
63 salaries or other compensation for personal services actually
64 rendered; nonreimbursable traveling expenses incident to current
65 employment, including a reasonable amount expended for meals and
66 lodging while away from home in the pursuit of a trade or
67 business; and rentals or other payments required to be made as a
68 condition of the continued use or possession, for purposes of the
69 trade or business of property to which the taxpayer has not taken
70 or is not taking title or in which he had no equity. Expense
71 incurred in connection with earning and distributing nontaxable
72 income is not an allowable deduction. Limitations on
73 entertainment expenses shall conform to the provisions of the
74 Internal Revenue Code of 1986.

75 (b) Interest. All interest paid or accrued during the
76 taxable year on business indebtedness, except interest upon the
77 indebtedness for the purchase of tax-free bonds, or any stocks,
78 the dividends from which are nontaxable under the provisions of
79 this article; provided, however, in the case of securities
80 dealers, interest payments or accruals on loans, the proceeds of
81 which are used to purchase tax-exempt securities, shall be
82 deductible if income from otherwise tax-free securities is
83 reported as income. Investment interest expense shall be limited
84 to investment income. Interest expense incurred for the purchase
85 of treasury stock, to pay dividends, or incurred as a result of an
86 undercapitalized affiliated corporation may not be deducted unless
87 an ordinary and necessary business purpose can be established to
88 the satisfaction of the commissioner. For the purposes of this
89 paragraph, the phrase "interest upon the indebtedness for the
90 purchase of tax-free bonds" applies only to the indebtedness
91 incurred for the purpose of directly purchasing tax-free bonds and
92 does not apply to any other indebtedness incurred in the regular
93 course of the taxpayer's business. Any corporation, association,

94 organization or other entity taxable under Section 27-7-23(c)
95 shall allocate interest expense as provided in Section
96 27-7-23(c)(4)(H).

97 (c) Taxes. Taxes paid or accrued within the taxable
98 year, except state and federal income taxes, excise taxes based on
99 or measured by net income, estate and inheritance taxes, gift
100 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
101 use taxes unless incurred as an item of expense in a trade or
102 business or in the production of taxable income. In the case of
103 an individual, taxes permitted as an itemized deduction under the
104 provisions of subsection (2)(a) of this section are to be claimed
105 thereunder.

106 (d) Business losses.

107 (i) Losses sustained during the taxable year not
108 compensated for by insurance or otherwise, if incurred in trade or
109 business, or nonbusiness transactions entered into for profit.

110 (ii) Limitations on losses from passive activities
111 and rental real estate shall conform to the provisions of the
112 Internal Revenue Code of 1986.

113 (e) Bad debts. Losses from debts ascertained to be
114 worthless and charged off during the taxable year, if sustained in
115 the conduct of the regular trade or business of the taxpayer;
116 provided, that such losses shall be allowed only when the taxpayer
117 has reported as income, on the accrual basis, the amount of such
118 debt or account.

119 (f) Depreciation. A reasonable allowance for
120 exhaustion, wear and tear of property used in the trade or
121 business, or rental property, and depreciation upon buildings
122 based upon their reasonable value as of March 16, 1912, if
123 acquired prior thereto, and upon cost if acquired subsequent to
124 that date.

125 (g) Depletion. In the case of mines, oil and gas
126 wells, other natural deposits and timber, a reasonable allowance

127 for depletion and for depreciation of improvements, based upon
128 cost, including cost of development, not otherwise deducted, or
129 fair market value as of March 16, 1912, if acquired prior to that
130 date, such allowance to be made upon regulations prescribed by the
131 commissioner, with the approval of the Governor.

132 (h) Contributions or gifts. Except as otherwise
133 provided in subsection (2)(a) of this section for individuals,
134 contributions or gifts made by corporations within the taxable
135 year to corporations, organizations, associations or institutions,
136 including Community Chest funds, foundations and trusts created
137 solely and exclusively for religious, charitable, scientific or
138 educational purposes, or for the prevention of cruelty to children
139 or animals, no part of the net earnings of which inure to the
140 benefit of any private stockholder or individual. This deduction
141 shall be allowed in an amount not to exceed twenty percent (20%)
142 of the net income. Such contributions or gifts shall be allowable
143 as deductions only if verified under rules and regulations
144 prescribed by the commissioner, with the approval of the Governor.

145 Contributions made in any form other than cash shall be allowed
146 as a deduction, subject to the limitations herein provided, in an
147 amount equal to the actual market value of the contributions at
148 the time the contribution is actually made and consummated.

149 (i) Reserve funds - insurance companies. In the case
150 of insurance companies the net additions required by law to be
151 made within the taxable year to reserve funds when such reserve
152 funds are maintained for the purpose of liquidating policies at
153 maturity.

154 (j) Annuity income. The sums, other than dividends,
155 paid within the taxpayer year on policy or annuity contracts when
156 such income has been included in gross income.

157 (k) Contributions to employee pension plans.
158 Contributions made by an employer to a plan or a trust forming
159 part of a pension plan, stock bonus plan, disability or

160 death-benefit plan, or profit-sharing plan of such employer for
161 the exclusive benefit of some or all of his, their, or its
162 employees, or their beneficiaries, shall be deductible from his,
163 their, or its income only to the extent that, and for the taxable
164 year in which, the contribution is deductible for federal income
165 tax purposes under the Internal Revenue Code of 1986 and any other
166 provisions of similar purport in the Internal Revenue Laws of the
167 United States, and the rules, regulations, rulings and
168 determinations promulgated thereunder, provided that:

169 (i) The plan or trust be irrevocable.

170 (ii) The plan or trust constitute a part of a
171 pension plan, stock bonus plan, disability or death-benefit plan,
172 or profit-sharing plan for the exclusive benefit of some or all of
173 the employer's employees and/or officers, or their beneficiaries,
174 for the purpose of distributing the corpus and income of the plan
175 or trust to such employees and/or officers, or their
176 beneficiaries.

177 (iii) No part of the corpus or income of the plan
178 or trust can be used for purposes other than for the exclusive
179 benefit of employees and/or officers, or their beneficiaries.

180 Contributions to all plans or to all trusts of real or
181 personal property (or real and personal property combined) or to
182 insured plans created under a retirement plan for which provision
183 has been made under the laws of the United States of America,
184 making such contributions deductible from income for federal
185 income tax purposes, shall be deductible only to the same extent
186 under the Income Tax Laws of the State of Mississippi.

187 (1) Net operating loss carrybacks and carryovers.

188 A net operating loss for any taxable year ending after December
189 31, 1993, and taxable years thereafter, shall be a net operating
190 loss carryback to each of the three (3) taxable years preceding
191 the taxable year of the loss. If the net operating loss for any
192 taxable year is not exhausted by carrybacks to the three (3)

193 taxable years preceding the taxable year of the loss, then there
194 shall be a net operating loss carryover to each of the fifteen
195 (15) taxable years following the taxable year of the loss
196 beginning with any taxable year after December 31, 1991.

197 For any taxable year ending after December 31, 1997, the
198 period for net operating loss carrybacks and net operating loss
199 carryovers shall be the same as those established by the Internal
200 Revenue Code and the rules, regulations, rulings and
201 determinations promulgated thereunder.

202 The term "net operating loss," for the purposes of this
203 paragraph, shall be the excess of the deductions allowed over the
204 gross income; provided, however, the following deductions shall
205 not be allowed in computing same:

206 (i) No net operating loss deduction shall be
207 allowed.

208 (ii) No personal exemption deduction shall be
209 allowed.

210 (iii) Allowable deductions which are not
211 attributable to taxpayer's trade or business shall be allowed only
212 to the extent of the amount of gross income not derived from such
213 trade or business.

214 Any taxpayer entitled to a carryback period as provided by
215 this paragraph may elect to relinquish the entire carryback period
216 with respect to a net operating loss for any taxable year ending
217 after December 31, 1991. The election shall be made in the manner
218 prescribed by the State Tax Commission and shall be made by the
219 due date, including extensions of time, for filing the taxpayer's
220 return for the taxable year of the net operating loss for which
221 the election is to be in effect. The election, once made for any
222 taxable year, shall be irrevocable for that taxable year.

223 (m) Amortization of pollution or environmental control
224 facilities.

225 Allowance of deduction. Every taxpayer, at his election,

226 shall be entitled to a deduction for pollution or environmental
227 control facilities to the same extent as that allowed under the
228 Internal Revenue Code and the rules, regulations, rulings and
229 determinations promulgated thereunder.

230 (n) Dividend distributions - investment trusts.
231 Dividends distributed by an investment trust defined in Section
232 79-15-3, if the dividend distributions meet the requirements of
233 Section 857 or are otherwise deductible under Section 858 or 860,
234 federal Internal Revenue Code of 1986, as amended. The deductions
235 allowed in this paragraph shall be effective for the 1985 taxable
236 year of the investment trust and for each taxable year thereafter.

237 (2) **Individual nonbusiness deductions.**

238 (a) The amount allowable for individual nonbusiness
239 itemized deductions for federal income tax purposes, except the
240 deduction for state income taxes paid, where the individual is
241 eligible to elect, for the taxable year, to itemize deductions on
242 his federal return; or

243 (b) In lieu of the individual nonbusiness itemized
244 deductions authorized in paragraph (a), for all purposes other
245 than ordinary and necessary expenses paid or incurred during the
246 taxable year in carrying on any trade or business, an optional
247 standard deduction of:

248 (i) Three Thousand Four Hundred Dollars
249 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
250 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
251 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
252 in the case of married individuals filing a joint or combined
253 return;

254 (ii) One Thousand Seven Hundred Dollars
255 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
256 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
257 Three Hundred Dollars (\$2,300.00) for each calendar year
258 thereafter in the case of married individuals filing separate

259 returns;

260 (iii) Three Thousand Four Hundred Dollars

261 (\$3,400.00) in the case of a head of family; or

262 (iv) Two Thousand Three Hundred Dollars

263 (\$2,300.00) in the case of an individual who is not married.

264 In the case of a husband and wife living together, having
265 separate incomes, and filing combined returns, the standard
266 deduction authorized may be divided in any manner they choose. In
267 the case of separate returns by a husband and wife, the standard
268 deduction shall not be allowed to either if the taxable income of
269 one of the spouses is determined without regard to the standard
270 deduction.

271 (c) A nonresident individual shall be allowed the same
272 individual nonbusiness deductions as are authorized for resident
273 individuals in paragraph (a) or (b) of this subsection; however,
274 the nonresident individual is entitled only to that proportion of
275 the individual nonbusiness deductions as his net income from
276 sources within the State of Mississippi bears to his total or
277 entire net income from all sources.

278 (d) The amount allowable under Section 1 of this act
279 for being graduated from an accredited public or private high
280 school, junior college or community college or institution of
281 higher learning in this state.

282 (3) Nothing in this section shall permit the same item to be
283 deducted more than once, either in fact or in effect.

284 SECTION 3. Nothing in this act shall affect or defeat any
285 claim, assessment, appeal, suit, right or cause of action for
286 taxes due or accrued under the income tax laws before the date on
287 which this act becomes effective, whether such claims,
288 assessments, appeals, suits or actions have been begun before the
289 date on which this act becomes effective or are begun thereafter;
290 and the provisions of the income tax laws are expressly continued
291 in full force, effect and operation for the purpose of the

292 assessment, collection and enrollment of liens for any taxes due
293 or accrued and the execution of any warrant under such laws before
294 the date on which this act becomes effective, and for the
295 imposition of any penalties, forfeitures or claims for failure to
296 comply with such laws.

297 SECTION 4. Section 1 of this act shall be codified as a
298 separate Code section in Chapter 7, Title 27, Mississippi Code of
299 1972.

300 SECTION 5. This act shall take effect and be in force from
301 and after January 1, 1999.