

By: Representatives Howell, Barnett (116th), To: Ways and Means
Cameron, Chaney, Davis, Denny, Ellington,
Ellzey, Gadd, Hudson, Ishee, Johnson,
Ketchings, King, Martinson, Montgomery,
Moore, Reeves, Roberson, Shows, Smith (35th),
Smith (59th), Williams, Wells-Smith

HOUSE BILL NO. 1541

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT PREMIUMS PAID BY AN INDIVIDUAL FOR HEALTH INSURANCE
3 THAT IS OFFERED THROUGH THE INDIVIDUAL'S EMPLOYER SHALL BE
4 EXCLUDED FROM GROSS INCOME FOR STATE INCOME TAX PURPOSES; TO AMEND
5 SECTION 27-7-18, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
6 PREMIUMS PAID BY AN INDIVIDUAL FOR HEALTH INSURANCE THAT IS NOT
7 OFFERED BY OR THROUGH THE INDIVIDUAL'S EMPLOYER SHALL BE AN
8 ADJUSTMENT TO GROSS INCOME FOR STATE INCOME TAX PURPOSES; AND FOR
9 RELATED PURPOSES.

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

11 SECTION 1. Section 27-7-15, Mississippi Code of 1972, is
12 amended as follows:

13 27-7-15. (1) For the purposes of this article, except as
14 otherwise provided, the term "gross income" means and includes the
15 income of a taxpayer derived from salaries, wages, fees or
16 compensation for service, of whatever kind and in whatever form
17 paid, including income from governmental agencies and subdivisions
18 thereof; or from professions, vocations, trades, businesses,
19 commerce or sales, or renting or dealing in property, or
20 reacquired property; also from annuities, interest, rents,
21 dividends, securities, insurance premiums, reinsurance premiums,
22 considerations for supplemental insurance contracts, or the
23 transaction of any business carried on for gain or profit, or
24 gains, or profits, and income derived from any source whatever and
25 in whatever form paid. The amount of all such items of income
26 shall be included in the gross income for the taxable year in
27 which received by the taxpayer. The amount by which an eligible
28 employee's salary is reduced pursuant to a salary reduction
29 agreement authorized under Section 25-17-5 shall be excluded from
30 the term "gross income" within the meaning of this article.

31 (2) In determining gross income for the purpose of this
32 section, the following, under regulations prescribed by the
33 commissioner, shall be applicable:

34 (a) Dealers in property. Federal rules, regulations
35 and revenue procedures shall be followed with respect to
36 installment sales.

37 (b) Casual sales of property. Federal rules,
38 regulations and revenue procedures shall be followed with respect
39 to installment sales.

40 (i) The term "installment sale" means a
41 disposition of property where at least one (1) payment is to be
42 received after the close of the taxable year in which the
43 disposition occurs.

44 (ii) The term "installment method" means a method
45 under which the income recognized for any taxable year from the
46 disposition is that proportion of the payments received in that
47 year which the gross profit (realized or to be realized when
48 payment is completed) bears to the total contract price.

49 (c) Reserves of insurance companies. In the case of
50 insurance companies, any amounts in excess of the legally required
51 reserves shall be included as gross income.

52 (d) Affiliated companies or persons. As regards sales,
53 exchanges or payments for services from one to another of
54 affiliated companies or persons or under other circumstances where
55 the relation between the buyer and seller is such that gross
56 proceeds from the sale or the value of the exchange or the payment
57 for services are not indicative of the true value of the subject
58 matter of the sale, exchange or payment for services, the
59 commissioner shall prescribe uniform and equitable rules for
60 determining the true value of the gross income, gross sales,
61 exchanges or payment for services, or require consolidated returns
62 of affiliates.

63 (e) Alimony and separate maintenance payments. The
64 federal rules, regulations and revenue procedures in determining

65 the deductibility and taxability of alimony payments shall be
66 followed in this state.

67 (f) Reimbursement for expenses of moving. There shall
68 be included in gross income (as compensation for services) any
69 amount received or accrued, directly or indirectly, by an
70 individual as a payment for or reimbursement of expenses of moving
71 from one residence to another residence which is attributable to
72 employment or self-employment.

73 (3) In the case of taxpayers other than residents, gross
74 income includes gross income from sources within this state.

75 (4) The words "gross income" do not include the following
76 items of income which shall be exempt from taxation under this
77 article:

78 (a) The proceeds of life insurance policies and
79 contracts paid upon the death of the insured. However, the income
80 from the proceeds of such policies or contracts shall be included
81 in the gross income.

82 (b) The amount received by the insured as a return of
83 premium or premiums paid by him under life insurance policies,
84 endowment, or annuity contracts, either during the term or at
85 maturity or upon surrender of the contract.

86 (c) The value of property acquired by gift, bequest,
87 devise or descent, but the income from such property shall be
88 included in the gross income.

89 (d) Interest upon the obligations of the United States
90 or its possessions, or securities issued under the provisions of
91 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
92 War Finance Corporation, or obligations of the State of
93 Mississippi or political subdivisions thereof.

94 (e) The amounts received through accident or health
95 insurance as compensation for personal injuries or sickness, plus
96 the amount of any damages received for such injuries or such
97 sickness or injuries, or through the War Risk Insurance Act, or
98 any law for the benefit or relief of injured or disabled members

99 of the military or naval forces of the United States.

100 (f) Income received by any religious denomination or by
101 any institution or trust for moral or mental improvements,
102 religious, Bible, tract, charitable, benevolent, fraternal,
103 missionary, hospital, infirmary, educational, scientific,
104 literary, library, patriotic, historical or cemetery purposes or
105 for two (2) or more of such purposes, if such income be used
106 exclusively for carrying out one or more of such purposes.

107 (g) Income received by a domestic corporation which is
108 "taxable in another state" as this term is defined in this
109 article, derived from business activity conducted outside this
110 state. Domestic corporations taxable both within and without the
111 state shall determine Mississippi income on the same basis as
112 provided for foreign corporations under the provisions of this
113 article.

114 (h) In case of insurance companies, there shall be
115 excluded from gross income such portion of actual premiums
116 received from an individual policyholder as is paid back or
117 credited to or treated as an abatement of premiums of such
118 policyholder within the taxable year.

119 (i) Income from dividends that has already borne a tax
120 as dividend income under the provisions of this article, when such
121 dividends may be specifically identified in the possession of the
122 recipient.

123 (j) Amounts paid by the United States to a person as
124 added compensation for hazardous duty pay as a member of the Armed
125 Forces of the United States in a combat zone designated by
126 Executive Order of the President of the United States.

127 (k) Amounts received as retirement allowances,
128 pensions, annuities or optional retirement allowances paid under
129 the federal Social Security Act, the Railroad Retirement Act, the
130 Federal Civil Service Retirement Act, or any other retirement
131 system of the United States Government, retirement allowances paid
132 under the Mississippi Public Employees' Retirement System,

133 Mississippi Highway Safety Patrol Retirement System or any other
134 retirement system of the State of Mississippi or any political
135 subdivision thereof. The exemption allowed under this paragraph
136 (k) shall be available to the spouse or other beneficiary at the
137 death of the primary retiree.

138 (1) Amounts received as retirement allowances,
139 pensions, annuities or optional retirement allowances paid by any
140 public or governmental retirement system not designated in
141 subsection (k) or any private retirement system or plan of which
142 the recipient was a member at any time during the period of his
143 employment. Amounts received as a distribution under a Roth
144 individual retirement account shall be treated in the same manner
145 as provided under the Internal Revenue Code of 1986, as amended.
146 The exemption allowed under this paragraph (1) shall be available
147 to the spouse or other beneficiary at the death of the primary
148 retiree.

149 (m) Compensation not to exceed the aggregate sum of
150 Five Thousand Dollars (\$5,000.00) for any taxable year received by
151 a member of the National Guard or Reserve Forces of the United
152 States as payment for inactive duty training, active duty training
153 and state active duty.

154 (n) Compensation received for active service as a
155 member below the grade of commissioned officer and so much of the
156 compensation as does not exceed the aggregate sum of Five Hundred
157 Dollars (\$500.00) per month received for active service as a
158 commissioned officer in the Armed Forces of the United States for
159 any month during any part of which such members of the Armed
160 Forces (i) served in a combat zone as designated by Executive
161 Order of the President of the United States; or (ii) was
162 hospitalized as a result of wounds, disease or injury incurred
163 while serving in such combat zone.

164 (o) The proceeds received from federal and state
165 forestry incentives programs.

166 (p) The amount representing the difference between the

167 increase of gross income derived from sales for export outside the
168 United States as compared to the preceding tax year wherein gross
169 income from export sales was highest, and the net increase in
170 expenses attributable to such increased exports. In the absence
171 of direct accounting the ratio of net profits to total sales may
172 be applied to the increase in export sales. This item (p) shall
173 only apply to businesses located in this state engaging in the
174 international export of Mississippi goods and services. Such
175 goods or services shall have at least fifty percent (50%) of value
176 added at a location in Mississippi.

177 (q) Amounts paid by the federal government for the
178 construction of soil conservation systems as required by a
179 conservation plan adopted pursuant to 16 USCS 3801 et seq.

180 (r) The amount deposited in a medical savings account,
181 and any interest accrued thereon, that is a part of a medical
182 savings account program as specified in the Medical Savings
183 Account Act under Sections 71-9-1 through 71-9-9; provided,
184 however, that any amount withdrawn from such account for purposes
185 other than paying eligible medical expense or to procure health
186 coverage, shall be included in gross income.

187 (s) Amounts paid by the Mississippi Soil and Water
188 Conservation Commission from the Mississippi Soil and Water
189 Cost-Share Program for the installation of water quality best
190 management practices.

191 (t) Amounts paid by an individual as premiums for
192 health insurance covering the individual and any dependents of the
193 individual that is offered by or through the individual's
194 employer, if those amounts are not already excluded from gross
195 income because they are covered under a cafeteria plan as defined
196 in Section 125 of the Internal Revenue Code and regulations
197 adopted under that section.

198 (5) Prisoners of war, missing in action-taxable status.

199 (a) Members of the Armed Forces. Gross income does not
200 include compensation received for active service as a member of

201 the Armed Forces of the United States for any month during any
202 part of which such member is in a missing status, as defined in
203 paragraph (d) of this subsection, during the Vietnam Conflict as a
204 result of such conflict.

205 (b) Civilian employees. Gross income does not include
206 compensation received for active service as an employee for any
207 month during any part of which such employee is in a missing
208 status during the Vietnam Conflict as a result of such conflict.

209 (c) Period of conflict. For the purpose of this
210 subsection, the Vietnam Conflict began February 28, 1961, and ends
211 on the date designated by the President by Executive Order as the
212 date of the termination of combatant activities in Vietnam. For
213 the purpose of this subsection, an individual is in a missing
214 status as a result of the Vietnam Conflict if immediately before
215 such status began he was performing service in Vietnam or was
216 performing service in Southeast Asia in direct support of military
217 operations in Vietnam. "Southeast Asia" as used in this paragraph
218 is defined to include Cambodia, Laos, Thailand and waters adjacent
219 thereto.

220 (d) "Missing status" means the status of an employee or
221 member of the Armed Forces who is in active service and is
222 officially carried or determined to be absent in a status of (i)
223 missing; (ii) missing in action; (iii) interned in a foreign
224 country; (iv) captured, beleaguered or besieged by a hostile
225 force; or (v) detained in a foreign country against his will; but
226 does not include the status of an employee or member of the Armed
227 Forces for a period during which he is officially determined to be
228 absent from his post of duty without authority.

229 (e) "Active service" means active federal service by an
230 employee or member of the Armed Forces of the United States in an
231 active duty status.

232 (f) "Employee" means one who is a citizen or national
233 of the United States or an alien admitted to the United States for
234 permanent residence and is a resident of the State of Mississippi

235 and is employed in or under a federal executive agency or
236 department of the Armed Forces.

237 (g) "Compensation" means (i) basic pay; (ii) special
238 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)
239 basic allowance for subsistence; and (vi) station per diem
240 allowances for not more than ninety (90) days.

241 (h) If refund or credit of any overpayment of tax for
242 any taxable year resulting from the application of subsection (5)
243 of this section is prevented by the operation of any law or rule
244 of law, such refund or credit of such overpayment of tax may,
245 nevertheless, be made or allowed if claim therefor is filed with
246 the State Tax Commission within three (3) years after the date of
247 the enactment of this subsection.

248 (i) The provisions of this subsection shall be
249 effective for taxable years ending on or after February 28, 1961.

250 (6) A shareholder of an S corporation, as defined in Section
251 27-8-3(1)(g), shall take into account the income, loss, deduction
252 or credit of the S corporation only to the extent provided in
253 Section 27-8-7(2).

254 SECTION 2. Section 27-7-18, Mississippi Code of 1972, is
255 amended as follows:

256 27-7-18. (1) Alimony payments. In the case of a person
257 described in Section 27-7-15(2)(e), there shall be allowed as a
258 deduction from gross income amounts paid as periodic payments to
259 the extent of such amounts as are includible in the gross income
260 of the spouse as provided in Section 27-7-15(2)(e), payment of
261 which is made within the person's taxable year.

262 (2) Unreimbursed moving expenses incurred after December 31,
263 1994, are deductible as an adjustment to gross income in
264 accordance with provisions of the United State Internal Revenue
265 Code, and rules, regulations and revenue procedures thereunder
266 relating to moving expenses, not in direct conflict with the
267 provisions of the Mississippi Income Tax Law.

268 (3) Health insurance premiums. Amounts paid by an

269 individual as premiums for health insurance covering the
270 individual and any dependents of the individual that is not
271 offered by or through the individual's employer are deductible as
272 an adjustment to gross income.

273 SECTION 3. Nothing in this act shall affect or defeat any
274 claim, assessment, appeal, suit, right or cause of action for
275 taxes due or accrued under the income tax laws of the State of
276 Mississippi before the date on which this act becomes effective,
277 whether such claims, assessments, appeals, suits or actions have
278 been begun before the date on which this act becomes effective or
279 are begun thereafter; and the provisions of the income tax laws
280 are expressly continued in full force, effect and operation for
281 the purpose of the assessment, collection and enrollment of liens
282 for any taxes due or accrued and the execution of any warrant
283 under such laws before the date on which this act becomes
284 effective, and for the imposition of any penalties, forfeitures or
285 claims for failure to comply with those laws.

286 SECTION 4. This act shall take effect and be in force from
287 and after January 1, 1999.