

By: Senator(s) Bryan

To: Finance

## SENATE BILL NO. 2919

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO  
2 EXCLUDE DIVIDENDS RECEIVED FROM A SUBSIDIARY CORPORATION FROM  
3 GROSS INCOME UNDER THE MISSISSIPPI INCOME TAX LAW; AND FOR RELATED  
4 PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF  
5 MISSISSIPPI:

6  
7 SECTION 1. Section 27-7-15, Mississippi Code of 1972, is  
8 amended as follows:

9 27-7-15. (1) For the purposes of this article, except as  
10 otherwise provided, the term "gross income" means and includes the  
11 income of a taxpayer derived from salaries, wages, fees or  
12 compensation for service, of whatever kind and in whatever form  
13 paid, including income from governmental agencies and subdivisions  
14 thereof; or from professions, vocations, trades, businesses,  
15 commerce or sales, or renting or dealing in property, or  
16 reacquired property; also from annuities, interest, rents,  
17 dividends, securities, insurance premiums, reinsurance premiums,  
18 considerations for supplemental insurance contracts, or the  
19 transaction of any business carried on for gain or profit, or  
20 gains, or profits, and income derived from any source whatever and  
21 in whatever form paid. The amount of all such items of income  
22 shall be included in the gross income for the taxable year in  
23 which received by the taxpayer. The amount by which an eligible  
24 employee's salary is reduced pursuant to a salary reduction  
25 agreement authorized under Section 25-17-5 shall be excluded from  
26 the term "gross income" within the meaning of this article.

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

30 (a) Dealers in property. Federal rules, regulations  
31 and revenue procedures shall be followed with respect to  
32 installment sales.

33 (b) Casual sales of property. Federal rules,  
34 regulations and revenue procedures shall be followed with respect  
35 to installment sales.

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

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

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

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

59 (e) Alimony and separate maintenance payments. The  
60 federal rules, regulations and revenue procedures in determining  
61 the deductibility and taxability of alimony payments shall be  
62 followed in this state.

63 (f) Reimbursement for expenses of moving. There shall

64 be included in gross income (as compensation for services) any  
65 amount received or accrued, directly or indirectly, by an  
66 individual as a payment for or reimbursement of expenses of moving  
67 from one residence to another residence which is attributable to  
68 employment or self-employment.

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

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

74 (a) The proceeds of life insurance policies and  
75 contracts paid upon the death of the insured. However, the income  
76 from the proceeds of such policies or contracts shall be included  
77 in the gross income.

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

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

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

90 (e) The amounts received through accident or health  
91 insurance as compensation for personal injuries or sickness, plus  
92 the amount of any damages received for such injuries or such  
93 sickness or injuries, or through the War Risk Insurance Act, or  
94 any law for the benefit or relief of injured or disabled members  
95 of the military or naval forces of the United States.

96 (f) Income received by any religious denomination or by  
97 any institution or trust for moral or mental improvements,

98 religious, Bible, tract, charitable, benevolent, fraternal,  
99 missionary, hospital, infirmary, educational, scientific,  
100 literary, library, patriotic, historical or cemetery purposes or  
101 for two (2) or more of such purposes, if such income be used  
102 exclusively for carrying out one or more of such purposes.

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

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

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

119 (j) Amounts paid by the United States to a person as  
120 added compensation for hazardous duty pay as a member of the Armed  
121 Forces of the United States in a combat zone designated by  
122 Executive Order of the President of the United States.

123 (k) Amounts received as retirement allowances,  
124 pensions, annuities or optional retirement allowances paid under  
125 the federal Social Security Act, the Railroad Retirement Act, the  
126 Federal Civil Service Retirement Act, or any other retirement  
127 system of the United States government, retirement allowances paid  
128 under the Mississippi Public Employees' Retirement System,  
129 Mississippi Highway Safety Patrol Retirement System or any other  
130 retirement system of the State of Mississippi or any political  
131 subdivision thereof. The exemption allowed under this paragraph

132 (k) shall be available to the spouse or other beneficiary at the  
133 death of the primary retiree.

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

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

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

160 (o) The proceeds received from federal and state  
161 forestry incentives programs.

162 (p) The amount representing the difference between the  
163 increase of gross income derived from sales for export outside the  
164 United States as compared to the preceding tax year wherein gross  
165 income from export sales was highest, and the net increase in

166 expenses attributable to such increased exports. In the absence  
167 of direct accounting the ratio of net profits to total sales may  
168 be applied to the increase in export sales. This item (p) shall  
169 only apply to businesses located in this state engaging in the  
170 international export of Mississippi goods and services. Such  
171 goods or services shall have at least fifty percent (50%) of value  
172 added at a location in Mississippi.

173 (q) Amounts paid by the federal government for the  
174 construction of soil conservation systems as required by a  
175 conservation plan adopted pursuant to 16 USC 3801 et seq.

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

183 (s) Amounts paid by the Mississippi Soil and Water  
184 Conservation Commission from the Mississippi Soil and Water  
185 Cost-Share Program for the installation of water quality best  
186 management practices.

187 (t) Dividends received from a subsidiary corporation.

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

189 (a) Members of the Armed Forces. Gross income does not  
190 include compensation received for active service as a member of  
191 the Armed Forces of the United States for any month during any  
192 part of which such member is in a missing status, as defined in  
193 paragraph (d) of this subsection, during the Vietnam Conflict as a  
194 result of such conflict.

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

199 (c) Period of conflict. For the purpose of this

200 subsection, the Vietnam Conflict began February 28, 1961, and ends  
201 on the date designated by the President by Executive Order as the  
202 date of the termination of combatant activities in Vietnam. For  
203 the purpose of this subsection, an individual is in a missing  
204 status as a result of the Vietnam Conflict if immediately before  
205 such status began he was performing service in Vietnam or was  
206 performing service in Southeast Asia in direct support of military  
207 operations in Vietnam. "Southeast Asia" as used in this paragraph  
208 is defined to include Cambodia, Laos, Thailand and waters adjacent  
209 thereto.

210 (d) "Missing status" means the status of an employee or  
211 member of the Armed Forces who is in active service and is  
212 officially carried or determined to be absent in a status of (i)  
213 missing; (ii) missing in action; (iii) interned in a foreign  
214 country; (iv) captured, beleaguered or besieged by a hostile  
215 force; or (v) detained in a foreign country against his will; but  
216 does not include the status of an employee or member of the Armed  
217 Forces for a period during which he is officially determined to be  
218 absent from his post of duty without authority.

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

222 (f) "Employee" means one who is a citizen or national  
223 of the United States or an alien admitted to the United States for  
224 permanent residence and is a resident of the State of Mississippi  
225 and is employed in or under a federal executive agency or  
226 department of the Armed Forces.

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

231 (h) If refund or credit of any overpayment of tax for  
232 any taxable year resulting from the application of subsection (5)  
233 of this section is prevented by the operation of any law or rule

234 of law, such refund or credit of such overpayment of tax may,  
235 nevertheless, be made or allowed if claim therefor is filed with  
236 the State Tax Commission within three (3) years after the date of  
237 the enactment of this subsection.

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

240 (6) A shareholder of an S corporation, as defined in Section  
241 27-8-3(1)(g), shall take into account the income, loss, deduction  
242 or credit of the S corporation only to the extent provided in  
243 Section 27-8-7(2).

244 SECTION 2. This act shall take effect and be in force from  
245 and after January 1, 1999.