

By: Zuber, Lott, Ishee, Baker, Barbour,
Barnett (116th), Creel, Eads, Espy,
Fillingane, Formby, Guice, Janus, Ketchings,
Mayo, Montgomery (15th), Roberson, Ryals,
Whittington

To: Ways and Means

HOUSE BILL NO. 1255

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF THE TERM "GROSS INCOME" FOR PURPOSES OF
3 THE STATE INCOME TAX LAW TO EXCLUDE COMPENSATION RECEIVED BY A
4 RESIDENT OF THIS STATE FOR ACTIVE FEDERAL SERVICE AS A MEMBER OF
5 THE ARMED FORCES OF THE UNITED STATES WHILE SUCH PERSON IS
6 STATIONED OUTSIDE THE STATE OF MISSISSIPPI; AND FOR RELATED
7 PURPOSES.

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

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

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

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

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

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

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

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

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

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

61 (e) Alimony and separate maintenance payments. The

62 federal rules, regulations and revenue procedures in determining
63 the deductibility and taxability of alimony payments shall be
64 followed in this state.

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

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

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

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

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

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

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

92 (e) The amounts received through accident or health
93 insurance as compensation for personal injuries or sickness, plus
94 the amount of any damages received for such injuries or such

95 sickness or injuries, or through the War Risk Insurance Act, or
96 any law for the benefit or relief of injured or disabled members
97 of the military or naval forces of the United States.

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

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

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

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

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

125 (k) Amounts received as retirement allowances,
126 pensions, annuities or optional retirement allowances paid under
127 the federal Social Security Act, the Railroad Retirement Act, the

128 Federal Civil Service Retirement Act, or any other retirement
129 system of the United States government, retirement allowances paid
130 under the Mississippi Public Employees' Retirement System,
131 Mississippi Highway Safety Patrol Retirement System or any other
132 retirement system of the State of Mississippi or any political
133 subdivision thereof. The exemption allowed under this paragraph
134 (k) shall be available to the spouse or other beneficiary at the
135 death of the primary retiree.

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

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

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

161 while serving in such combat zone.

162 (o) The proceeds received from federal and state
163 forestry incentives programs.

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

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

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

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

189 (t) Dividends received by a holding corporation, as
190 defined in Section 27-13-1, from a subsidiary corporation, as
191 defined in Section 27-13-1.

192 (u) Compensation received by a resident for active
193 federal service as a member of the Armed Forces of the United

194 States in an active duty status, while such person is stationed
195 outside the State of Mississippi pursuant to military orders.

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

197 (a) Members of the Armed Forces. Gross income does not
198 include compensation received for active service as a member of
199 the Armed Forces of the United States for any month during any
200 part of which such member is in a missing status, as defined in
201 paragraph (d) of this subsection, during the Vietnam Conflict as a
202 result of such conflict.

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

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

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

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

230 (f) "Employee" means one who is a citizen or national
231 of the United States or an alien admitted to the United States for
232 permanent residence and is a resident of the State of Mississippi
233 and is employed in or under a federal executive agency or
234 department of the Armed Forces.

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

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

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

248 (6) A shareholder of an S corporation, as defined in Section
249 27-8-3(1)(g), shall take into account the income, loss, deduction
250 or credit of the S corporation only to the extent provided in
251 Section 27-8-7(2).

252 SECTION 2. Nothing in this act shall affect or defeat any
253 claim, assessment, appeal, suit, right or cause of action for
254 taxes due or accrued under the income tax laws before the date on
255 which this act becomes effective, whether such claims,
256 assessments, appeals, suits or actions have been begun before the
257 date on which this act becomes effective or are begun thereafter;
258 and the provisions of the income tax laws are expressly continued
259 in full force, effect and operation for the purpose of the

260 assessment, collection and enrollment of liens for any taxes due
261 or accrued and the execution of any warrant under such laws before
262 the date on which this act becomes effective, and for the
263 imposition of any penalties, forfeitures or claims for failure to
264 comply with such laws.

265 SECTION 3. This act shall take effect and be in force from
266 and after January 1, 2000.