To: Ways and Means

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2001
By: Representative Zuber

HOUSE BILL NO. 919

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

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

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

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

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

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

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

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

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

(d) Affiliated companies or persons. As regards sales, exchanges or payments for services from one to another of affiliated companies or persons or under other circumstances where the relation between the buyer and seller is such that gross proceeds from the sale or the value of the exchange or the payment for services are not indicative of the true value of the subject matter of the sale, exchange or payment for services, the commissioner shall prescribe uniform and equitable rules for determining the true value of the gross income, gross sales, exchanges or payment for services, or require consolidated returns of affiliates.
(e) Alimony and separate maintenance payments. The federal rules, regulations and revenue procedures in determining the deductibility and taxability of alimony payments shall be followed in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) Amounts received as retirement allowances,
pensions, annuities or optional retirement allowances paid under
the federal Social Security Act, the Railroad Retirement Act, the
Federal Civil Service Retirement Act, or any other retirement
system of the United States government, retirement allowances paid
under the Mississippi Public Employees' Retirement System,
Mississippi Highway Safety Patrol Retirement System or any other
retirement system of the State of Mississippi or any political
subdivision thereof. The exemption allowed under this paragraph
(k) shall be available to the spouse or other beneficiary at the
death of the primary retiree.

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

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

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

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

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

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

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

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

(t) Dividends received by a holding corporation, as defined in Section 27-13-1, from a subsidiary corporation, as defined in Section 27-13-1.
(u) Interest, dividends, gains or income of any kind on any account in the Mississippi Affordable College Savings Trust Fund, as established in Sections 37-155-101 through 37-155-125, to the extent that such amounts remain on deposit in the MACS Trust Fund or are withdrawn pursuant to a qualified withdrawal, as defined in Section 37-155-105.

(v) Interest, dividends or gains accruing on the payments made pursuant to a prepaid tuition contract, as provided for in Section 37-155-17.

(w) Compensation received by a resident for active federal service as a member of the Armed Forces of the United States in an active duty status while such person is stationed outside the State of Mississippi pursuant to military orders.

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

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

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

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

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

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

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

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

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

(i) The provisions of this subsection shall be effective for taxable years ending on or after February 28, 1961.
(6) A shareholder of an S corporation, as defined in Section 27-8-3(1)(g), shall take into account the income, loss, deduction or credit of the S corporation only to the extent provided in Section 27-8-7(2).

SECTION 2. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

SECTION 3. This act shall take effect and be in force from and after January 1, 2001.