

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

House Bill NO. 1695

By Senator(s) Committee

**Amend by striking all after the enacting clause and inserting in
lieu thereof the following:**

31 **SECTION 1. Section 27-7-9, Mississippi Code of 1972, is**

32 **amended as follows:**

33 **Through June 30, 2003, this section shall read as follows:]**

34 **27-7-9. (a) Except as provided in Sections 27-7-95 through**
35 **27-7-103, determination of amount of gain or loss.**

36 **(1) Computation of gain or loss. The gain from the sale or**
37 **other disposition of property shall be the excess of the amount**
38 **realized therefrom over the adjusted basis provided in subsection (c)**

39 for determining gain, and the loss shall be the excess of the adjusted
40 basis provided in subsection (c) for determining loss over the amount
41 realized.

42 (2) Amount realized. The amount realized from the sale or
43 other disposition of property shall be the sum of any money received
44 plus the fair market value of the property (other than money) received.

45 (3) Installment sales. Nothing in this section shall be
46 construed to prevent (in the case of property sold under contract
47 providing for payment in installments) the taxation of that portion of
48 any installment payment representing gain or profit in the year in
49 which such payment is received.

50 (b) Recognition of gain or loss. Except as otherwise provided in
51 this section, on the sale or exchange of property the entire amount of
52 the gain or loss, determined under subsection (a), shall be recognized.

53 (c) Adjusted basis for determining gain or loss.

54 **(1) In general. The adjusted basis for determining the gain**
55 **or loss from the sale or other disposition of property, whenever**
56 **acquired, shall be the basis determined under subsection (d) adjusted**
57 **as provided in subsection (e).**

58 **(2) Bargain sale to a charitable organization. If a deduction**
59 **is allowed under Section 27-7-17 (relating to charitable contributions)**
60 **by reason of a sale, then the adjusted basis for determining the gain**
61 **from such sale shall be that portion of the adjusted basis which bears**
62 **the same ratio to the adjusted basis as the amount realized bears to**
63 **the fair market value of the property.**

64 **(d) Basis of property.**

65 **(1) Property acquired after March 16, 1912. The basis for**
66 **ascertaining the gain derived or the loss sustained from the sale or**
67 **other disposition of property, real, personal or mixed, shall be, in the**
68 **case of property acquired after March 16, 1912, the cost of such**

69 **property, except as otherwise provided in this subsection.**

70 **(2) Inventory property. If the property should have been**
71 **included in the last inventory, the basis shall be the last inventory**
72 **value thereof.**

73 **(3) Property acquired by gift. In the case of property**
74 **acquired by gift after January 1, 1936, the basis shall be the same as**
75 **that which it would have in the hands of the donor or the last**
76 **preceding owner by whom it was not acquired by gift. If the facts**
77 **necessary to determine such basis are unknown to the donee, the**
78 **commissioner shall, if possible, obtain such facts from such donor, or**
79 **last preceding owner, or any other person cognizant thereof. If the**
80 **commissioner finds it impossible to obtain such facts, the**
81 **commissioner shall establish a basis for the property from the best**
82 **information available. In the case of property acquired by gift on or**
83 **before January 1, 1936, the basis for ascertaining gain or loss from the**

84 **sale or other disposition thereof shall be the fair market price or value**
85 **of such property at the time of acquisition.**

86 **(4) Property acquired by bequests, devises and inheritance.**

87 **If personal property was acquired by specific bequest, or if real**
88 **property was acquired by general or specific devise or by intestacy,**
89 **the basis shall be the fair market value of the property at the time of**
90 **the death of the decedent. If the property was acquired by the**
91 **decedent's estate from the decedent, the basis in the hands of the**
92 **estate shall be the fair market value of the property at the time of the**
93 **death of the decedent. In all other cases, if the property was acquired**
94 **either by will or by intestacy, the basis shall be the fair market value of**
95 **the property at the time of the distribution to the taxpayer. In the case**
96 **of property transferred in trust to pay the income for life to or upon the**
97 **order or direction of the grantor, with the right reserved to the grantor**
98 **at all times prior to his death to revoke the trust, the basis of such**

99 **property in the hands of the persons entitled under the terms of the**
100 **trust instrument to the property after the grantor's death shall, after**
101 **such death, be the same as if the trust instrument had been a will**
102 **executed on the day of the grantor's death.**

103 **(5) Property acquired by a transfer in trust. If the property**
104 **was acquired by a transfer in trust (other than by a transfer in trust by**
105 **a bequest or devise), the basis shall be the same as it would be in the**
106 **hands of the grantor, increased in the amount of gain, or decreased in**
107 **the amount of loss, recognized to the grantor upon such transfer under**
108 **this section.**

109 **(6) Property acquired in tax-free exchanges. If the property**
110 **was acquired upon an exchange described in subsection (f), the basis**
111 **shall be the same as in the case of the property exchanged, decreased**
112 **in the amount of any money received by the taxpayer and increased in**
113 **the amount of gain or decreased in the amount of loss to the taxpayer**

114 that was recognized upon such exchange by the terms of this act. If
115 the property so acquired consisted in part of the type of property
116 permitted by subsection (f) to be received without recognition of gain
117 or loss, and in part of other property, the basis provided in this
118 subsection shall be allocated between the properties (other than
119 money) received, and for the purpose of the allocation there shall be
120 assigned to such other property an amount equivalent to its fair market
121 value at the date of the exchange.

122 (7) Property acquired in tax-free distribution. If the property
123 consists of stock or securities distributed to a taxpayer in connection
124 with a transaction described in subsection (f), the basis in the case of
125 the stock in respect of which the distribution was made shall be
126 apportioned, under rules and regulations prescribed by the
127 commissioner, between such stock and the stock or securities
128 distributed.

129 **(8) Property acquired in involuntary conversions. If the**
130 **property was acquired as the result of a compulsory or involuntary**
131 **conversion described in subsection (f), the basis shall be the same as**
132 **in the case of property so converted, decreased in the amount of any**
133 **money received by the taxpayer which was not expended in**
134 **accordance with the provisions of said subsection determining the**
135 **taxable status of the gain or loss upon such conversion, and increased**
136 **in the amount of gain or decreased in the amount of loss to the**
137 **taxpayer recognized upon such conversion.**

138 **(9) Property acquired in wash sales. If substantially**
139 **identical property was acquired in place of stock or securities which**
140 **were sold or disposed of and in respect of which loss was not allowed**
141 **as a deduction under Section 27-7-17(d), the basis in the case of**
142 **property so acquired shall be the basis in the case of the stock or**
143 **securities so sold or disposed of, except that, if the repurchase price**

144 was in excess of the sales price, such basis shall be increased in the
145 amount of the difference, or if the repurchase price was less than the
146 sales price, such basis shall be decreased in the amount of the
147 difference.

148 (10) Property acquired before March 16, 1912. The basis for
149 determining the gain or loss from the sale or other disposition of
150 property acquired before March 16, 1912, shall be:

151 (A) The cost of such property (or in the case of such
152 property as is described in subsection (d)(2) or (4) of this section the
153 basis as therein provided, or in the case of property acquired by gift or
154 transfer in trust, the fair market value of such property at the time of
155 such acquisition); or

156 (B) The fair market value of such property as of March
157 16, 1912, whichever is greater.

158 In determining the fair market value of stock in a corporation as

159 **of March 16, 1912, due regard shall be given to the fair market value of**
160 **the assets of the corporation as of that date.**

161 **(e) Adjustments to basis.**

162 **(1) In general. In computing the amount of gain or loss**
163 **from the sale or other disposition of property, proper adjustment shall**
164 **be made for any expenditure, receipt, loss or other item, properly**
165 **chargeable to capital account since the basis date. The cost or other**
166 **basis of the property shall also be diminished by the amount of the**
167 **deductions for exhaustion, wear and tear, obsolescence, amortization,**
168 **and depletion, which have since the acquisition of the property been**
169 **allowable in respect of such property whether or not such deductions**
170 **were claimed by the taxpayer or formerly allowed. In the case of stock,**
171 **the basis shall be diminished by the amount of distributions previously**
172 **made in respect to such stock, to the extent provided under this**
173 **section.**

174 **(2) Substituted basis. Whenever it appears that the basis of**
175 **the property in the hands of a taxpayer is a substituted basis, then the**
176 **adjustments provided in subsection (e)(1) shall be made after first**
177 **making in respect of such substituted basis proper adjustments of a**
178 **similar nature in respect of the period during which the property was**
179 **held by the transferor, donor or grantor, or during which the other**
180 **property was held by the person for whom the basis is to be**
181 **determined. The term "substituted basis" as used in this subsection**
182 **means a basis determined under any provision of this section or under**
183 **any corresponding provision of a prior Income Tax Law, providing that**
184 **the basis shall be determined by reference to the basis in the hands of**
185 **a transferor, donor or grantor, or, by reference to other property held at**
186 **any time by the person for whom the basis is to be determined.**

187 **(f) Recognition of gain or loss -- exceptions.**

188 **(1) Exchange solely in kind.**

189 **(A) Property held for productive use or investment.**

190 **No gain or loss shall be recognized if property held for productive use**
191 **in trade or business or for investment (not including stock in trade or**
192 **other property held primarily for sale, nor stocks, bonds, notes, choses**
193 **in action, certificates of trust or beneficial interest, or other securities**
194 **or evidence of indebtedness or interest) is exchanged solely for**
195 **property of a like kind to be held either for productive use in trade or**
196 **business or for investment.**

197 **(B) Stock for stock in same corporation. No gain or**
198 **loss shall be recognized if common stock in a corporation is**
199 **exchanged solely for common stock in the same corporation, or if**
200 **preferred stock in a corporation is exchanged solely for preferred**
201 **stock in the same corporation.**

202 **(C) Transfers to corporation controlled by transferor.**

203 **No gain or loss shall be recognized if property is transferred to a**

204 corporation by one or more persons solely in exchange for stock or
205 securities in such corporation, and if immediately after the exchange
206 such person or persons are in control of the corporation; but in the
207 case of an exchange by two (2) or more persons, this subsection shall
208 apply only if the amount of the stock and securities received by each is
209 substantially in proportion to his interest in the property prior to the
210 exchange.

211 (D) Stock for stock on reorganization. No gain or loss
212 shall be recognized if stock or securities in a corporation, a party to a
213 reorganization, are, in pursuance of the plan of reorganization,
214 exchanged solely for stock or securities in such corporation or in
215 another corporation, a party to a reorganization.

216 (2) Gain from exchanges not solely in kind. If an exchange
217 would be within the provisions of subsection (f)(1) of this section, if it
218 were not for the fact that the property received in exchange consists

219 **not only of property permitted by subsection (f)(1) to be received**
220 **without the recognition of gain, but also of other property or money,**
221 **then the gain, if any, to the recipient shall be recognized, but in an**
222 **amount not in excess of the sum of such money and the fair market**
223 **value of such other property so received.**

224 **(3) Loss from exchanges not solely in kind. If an exchange**
225 **would be within the provisions of subsection (f)(1) of this section, if it**
226 **were not for the fact that the property received in exchange consists**
227 **not only of property permitted by subsection (f)(1) to be received**
228 **without the recognition of gain or loss but also of other property or**
229 **money, then no loss from the exchange shall be recognized.**

230 **(4) Distribution of stock on reorganization. If in pursuance**
231 **of a plan of reorganization, there is distributed to a shareholder in a**
232 **corporation, a party to the reorganization, stock or securities in such**
233 **corporation or in another corporation, a party to the reorganization,**

234 **without the surrender by such shareholder of stock or securities in**
235 **such corporation, no gain to the distributee from the receipt of such**
236 **stock or securities shall be recognized.**

237 **(5) Distribution with effect of taxable dividend. If a**
238 **distribution made in pursuance of a plan of reorganization is within the**
239 **provisions of subsection (f)(4) of this section, but has the effect of the**
240 **distribution of a taxable dividend, then there shall be taxed as a**
241 **dividend to each distributee such an amount of the gain recognized**
242 **under subsection (f)(2) as is not in excess of his rateable share of the**
243 **undistributed earnings and profits of the corporation. The remainder,**
244 **if any, of the gain recognized under subsection (f)(2) shall be taxed as**
245 **a gain from the exchange of property.**

246 **(6) Involuntary conversions. If property, as a result of its**
247 **destruction in whole or in part, theft, seizure or requisition or**
248 **condemnation, or threat or imminence thereof, is compulsorily or**

249 **involuntarily converted:**

250 **(A) Into property similar or related in service or use to**
251 **the property so converted, no gain shall be recognized, but loss shall**
252 **be recognized;**

253 **(B) Into money, no gain shall be recognized if such**
254 **money is expended, within a period ending two (2) years after the close**
255 **of the first taxable year in which any part of the gain upon the**
256 **conversion is realized, in the acquisition of other property similar or**
257 **related in service or use to the property so converted, or in the**
258 **acquisition of control of a corporation owning such other property, or**
259 **in the establishment of a replacement fund, but loss shall be**
260 **recognized. If any part of the money is not so expended, the gain shall**
261 **be recognized to the extent of the money which is not so expended,**
262 **regardless of whether such money is received in one or more taxable**
263 **years and regardless of whether or not the money which is not so**

264 **expended constitutes gain. Provided, gain realized on property which**
265 **is compulsorily or involuntarily converted for public use under Title II,**
266 **Chapter 27, Mississippi Code of 1972, or any federal law relating to the**
267 **involuntary conversion of property for public use shall not be**
268 **recognized. Provided further, that gain realized on property which is**
269 **voluntarily converted for public use shall not be recognized after it**
270 **becomes evident that eminent domain proceedings are probable.**

271 **The provisions of this subsection relating to the nonrecognition**
272 **of gain, including the exception provided in subparagraph (B), shall**
273 **apply only to an owner of the converted property who has held title to**
274 **such property for a period at least three (3) years prior to the date of**
275 **the disposition of the converted property, provided that an owner who**
276 **acquired such property by bequest, devise, gift or inheritance shall be**
277 **excluded from this limitation, if the preceding owner acquired title to**
278 **such property at least three (3) years prior to the date of disposition.**

279 **(7) Property exchanged treated as equivalent of cash.**

280 **When property other than property specified in subsection (f)(1)(A) of**
281 **this section is exchanged for other property, the property received in**
282 **exchange shall, for the purpose of determining gain or loss, be treated**
283 **as the equivalent of cash to the amount of its fair market value.**

284 **(8) Distribution of assets of corporation. The distribution to**
285 **the taxpayer of the assets of a corporation shall be treated as a sale of**
286 **the stock or securities of the corporation owned by him, and the gain**
287 **or loss shall be computed accordingly.**

288 **(9) Organization of a corporation. In the case of the**
289 **organization of a corporation, the stock and securities received shall**
290 **be considered to take the place of property transferred therefor, and no**
291 **gain or loss shall be deemed to arise therefrom.**

292 **(10) Sales of certain interests in financial institutions**
293 **domiciled in Mississippi, domestic corporations, domestic limited**

294 **partnerships or domestic limited liability companies.**

295 **(A) No gain shall be recognized from the sale of**
296 **authorized shares in financial institutions domiciled in Mississippi and**
297 **domestic corporations, or partnership interests in domestic limited**
298 **partnerships and domestic limited liability companies, that have been**
299 **held for more than one (1) year; provided, however, that any gain that**
300 **would otherwise be excluded by this provision shall first be applied**
301 **against, and reduced by, any losses determined from sales or**
302 **transactions described by this provision if the losses were incurred in**
303 **the year of the gain or within the two (2) years preceding or**
304 **subsequent to the gain.**

305 **(B) No gain shall be recognized from the sale of all or**
306 **at least ninety percent (90%) of the assets in domestic corporations**
307 **except those assets that represent the ownership interest of another**
308 **entity provided:**

309 **(i) The assets of the corporation have been held**
310 **for more than one (1) year;**

311 **(ii) The corporation is totally liquidated and**
312 **dissolved within one (1) calendar year from the date of the sale of all or**
313 **at least ninety percent (90%) of the assets of the corporation; and**

314 **(iii) The depreciation and/or amortization that**
315 **has been taken on the assets of the corporation shall be recaptured**
316 **and taxed as ordinary income in the same manner as provided for in**
317 **Section 1245 of the Internal Revenue Code, as amended, and any**
318 **corresponding regulations relating to Section 1245 property. All**
319 **depreciation and/or amortization shall be recaptured up to cost prior to**
320 **any nonrecognition of gains.**

321 **(g) Reorganization defined. The term "reorganization" means:**

322 **(1) A statutory merger or consolidation;**

323 **(2) The acquisition by one (1) corporation, in exchange**

324 **solely for all or a part of its voting stock (or in exchange solely for all**
325 **or a part of the voting stock of a corporation which is in control of the**
326 **acquiring corporation), of stock of another corporation if, immediately**
327 **after the acquisition, the acquiring corporation has control of such**
328 **other corporation, or of substantially all the properties of another**
329 **corporation;**

330 **(3) A transfer by a corporation of all or a part of its assets to**
331 **another corporation if immediately after the transfer the transferor, or**
332 **one or more of its shareholders (including persons who were**
333 **shareholders immediately before the transfer), or any combination**
334 **thereof, is in control of the corporation to which the assets are**
335 **transferred;**

336 **(4) A recapitalization; or**

337 **(5) A mere change in identity, form, or place of**
338 **organization, however effected.**

339 **(h) Party to a reorganization defined. The term "a party to a**
340 **reorganization" includes a corporation resulting from a reorganization**
341 **and includes both corporations in the case of an acquisition by one (1)**
342 **corporation of at least a majority of the voting stock and at least a**
343 **majority of the total number of shares of all other classes of stock of**
344 **another corporation.**

345 **(i) Control defined. As used in this section, the term "control"**
346 **means the ownership of at least eighty percent (80%) of the voting**
347 **stock and at least eighty percent (80%) of the total number of shares of**
348 **all other classes of stock of the corporation.**

349 **(j) Special rules.**

350 **(1) Liquidation of subsidiaries. A transfer to a parent**
351 **corporation from its subsidiary of property distributed in complete**
352 **liquidation of the subsidiary shall result in no recognized gain or loss if**
353 **the basis of the property in the hands of the parent corporation is the**

354 same as it was in the hands of the subsidiary.

355 **(2) Gain or loss on sales or exchanges in connection with**
356 **certain liquidations. Corporations adopting a plan of complete**
357 **liquidation under the provisions of the Internal Revenue Code shall**
358 **recognize the gain or loss from the sale or exchange of property by the**
359 **corporation under said plan. The total gain or loss from the liquidating**
360 **distributions shall be recognized by the shareholders; however, a**
361 **credit for the tax paid by the liquidating corporation on the gain from**
362 **the sale or exchange of property under the plan of liquidation will be**
363 **allowed to the extent of any tax liability to the shareholders. The**
364 **corporation shall provide to the State Tax Commission a list of all**
365 **shareholders with their percentage of ownership, distribution, tax**
366 **credit allowed, and any other information requested.**

367 **(3) Distribution of stock and securities of a controlled**
368 **corporation. No gain shall be recognized on a distribution to a**

369 **stockholder of a corporation if such gain would not be recognized to**
370 **such stockholder for federal income tax purposes under the provisions**
371 **of Section 355 of the federal Internal Revenue Code.**

372 **(4) Notwithstanding the other provisions of this section, a**
373 **corporation or other entity that is involved in restructuring,**
374 **reorganizing, distributing assets or profits, or changing ownership that**
375 **results in an adjustment to its asset basis is required to report a gain**
376 **in the year such transaction occurs on any such transaction when the**
377 **transaction involves assets owned or used in this state, or otherwise**
378 **represents assets owned or used in this state. If a transfer of income**
379 **or a change in asset valuation occurs on the tax records of the**
380 **taxpayer, such transaction shall result in taxation to this state to the**
381 **extent of the transfer of income or change in asset valuation.**

382 **(5) If a corporation or other entity makes an Internal**
383 **Revenue Code Section 338 election, or other similar election under**

384 **which the aggregate basis in assets are increased on the tax records**
385 **of the taxpayer, then a similar election must also be made for**
386 **Mississippi purposes, but the gain must be recognized by the**
387 **corporation in which the increase in basis of the assets occurs. The**
388 **corporation or other entity is allowed to increase its basis by the**
389 **amount of gain recognized. An aggregate write-down of assets is not**
390 **allowed. The parent corporation shall recognize the gain on the**
391 **disposition of its stock.**

392 **(6) For state tax purposes, a corporation or other legal**
393 **entity is considered separate from its shareholders, affiliated**
394 **corporations or other entities. If a corporation or other legal entity**
395 **enters into any transaction that is for the benefit of its shareholders or**
396 **for the benefit of an affiliated corporation without an equal mutual**
397 **business benefit of the corporation, then, the transaction will be**
398 **adjusted or eliminated to arrive at taxable income to this state. All**

399 **transactions entered into by a corporation must be at "arms-length." If**
400 **requested by the commissioner, the taxpayer must be able to**
401 **substantiate that the transaction occurred at "arms-length." If not, the**
402 **transaction may be adjusted to the satisfaction of the commissioner.**

403 **In determining whether the transaction occurred at arms-length, the**
404 **commissioner shall consider the following:**

405 **(A) Whether the transaction is in compliance with the**
406 **federal regulations promulgated under Internal Revenue Code Section**
407 **482;**

408 **(B) Whether the transaction was done for a valid**
409 **business purpose;**

410 **(C) Whether the income being shifted by the**
411 **transaction is subject to a tax in another state;**

412 **(D) Whether the transaction is consistent with the**
413 **results that would have been realized if uncontrolled taxpayers had**

414 **engaged in the same transaction under the same circumstances; and**

415 **(E) Other factors which support the conclusion that**

416 **income is being shifted to avoid the tax imposed by this chapter.**

417 **(k) Sale or exchange of residence.**

418 **(1) Loss on sale or exchange of residence. Loss from the**

419 **sale or exchange of property used by the taxpayer as his principal**

420 **residence is not recognized and cannot be deducted.**

421 **(2) Nonrecognition of gain. Gain shall be computed in**

422 **accordance with the provisions of the Internal Revenue Code, rules,**

423 **regulations and revenue procedures relating to the sale or exchange of**

424 **a personal residence not in direct conflict with the provisions of the**

425 **Mississippi Income Tax Law.**

426 **(3) Gain on the sale or exchange of residence. A**

427 **recognizable gain on the sale or exchange of a personal residence**

428 **shall be included in gross income and treated as ordinary income.**

429 **(l) Distributions by corporations.**

430 **(1) Distributions of the property of a corporation, including**
431 **partial and complete liquidations, shall be recognized by the**
432 **distributing corporation and the gain or loss shall be computed on the**
433 **difference of the fair market value of the assets distributed and their**
434 **basis. The total gain or loss from the distributions to the shareholders**
435 **shall be recognized by the shareholders subject to subsections (f)(8)**
436 **and (j)(1); however, a credit for the tax paid by the distributing**
437 **corporation on the gain from the sale or exchange of property under**
438 **the plan of distribution will be allowed to the extent of any liability to**
439 **the shareholders. The corporation shall provide to the State Tax**
440 **Commission a list of all shareholders with their percentage of**
441 **ownership, distribution, tax credit allowed, and any other information**
442 **requested.**

443 **(2) Source of distributions. For the purposes of this act,**

444 every distribution is made out of earnings or profits to the extent
445 thereof, and from the most recently accumulated earnings and profits.
446 Any earnings or profit accumulated, or increase in value of property
447 acquired, before March 16, 1912, may be distributed exempt from tax
448 (after the earnings and profits accumulated after March 16, 1912, have
449 been distributed), but any such tax-free distribution shall be applied
450 against and reduce the basis of the stock provided in subsection (d).

451 (3) Distributions in liquidation. Amounts distributed in
452 complete liquidation of a corporation shall be treated as in full
453 payment in exchange for the stock, and amounts distributed in partial
454 liquidation of a corporation shall be treated as in part or full payment in
455 exchange for the stock. The gain or loss to the distributee resulting
456 from such exchange shall be determined under subsection (a), but
457 shall be recognized only to the extent provided in subsection (f). In the
458 case of amounts distributed in partial liquidation, the part of such

459 **distribution which is property chargeable to capital account shall not**
460 **be considered a distribution of earnings or profits within the meaning**
461 **of paragraph (2) of this subsection for the purpose of determining the**
462 **taxability of subsequent distributions by the corporations.**

463 **(4) Other distributions. If any distribution (not in partial or**
464 **complete liquidation) made by a corporation to its shareholders, is not**
465 **out of increase in value of property accrued before March 16, 1912, and**
466 **is not out of earnings or profits, then the amount of such distribution**
467 **shall be applied against and reduce the basis of the stock provided in**
468 **subsection (d), and if in excess of such basis, such excess shall be**
469 **taxable in the same manner as a gain from the sale or exchange of**
470 **property.**

471 **(5) Stock dividends. A stock dividend shall not be subject**
472 **to tax.**

473 **(6) Cancellation or redemption of stock. If a corporation**

474 **cancels or redeems its stock (whether or not such stock was issued as**
475 **a stock dividend) at such time and in such manner as to make the**
476 **distribution and cancellation or redemption in whole or in part**
477 **essentially equivalent to the distribution of a taxable dividend, the**
478 **amount so distributed in redemption or cancellation of the stock, to the**
479 **extent that it represents a distribution of earnings or profits**
480 **accumulated after March 16, 1912, shall be treated as a taxable**
481 **dividend.**

482 **(7) "Amounts distributed in partial liquidation" defined. As**
483 **used in this subsection, the term "amounts distributed in partial**
484 **liquidation" means distribution by a corporation in complete**
485 **cancellation or redemption of a part of its stock, or one of a series of**
486 **distributions in complete cancellation or redemption of all or a portion**
487 **of its stock.**

488 **(8) Distributions of stock pursuant to order enforcing the**

489 **Antitrust Laws. Any distribution of stock which is made pursuant to**
490 **the order of any court enforcing the Antitrust Laws of the United**
491 **States, or of any state, shall be a distribution which is not out of**
492 **earnings and profits of the distributing corporation, but the value of**
493 **the stock so distributed shall be applied against and reduce the basis**
494 **of the stock of the distributing corporation provided in subsection (d),**
495 **and if in excess of such basis, such excess shall be taxable in the**
496 **same manner as a gain from the sale or exchange of property.**

497 **[From and after July 1, 2003, this section shall read as follows:]**

498 **27-7-9. (a) Except as provided in Sections 27-7-95 through**
499 **27-7-103, determination of amount of gain or loss.**

500 **(1) Computation of gain or loss. The gain from the sale or**
501 **other disposition of property shall be the excess of the amount**
502 **realized therefrom over the adjusted basis provided in subsection (c)**
503 **for determining gain, and the loss shall be the excess of the adjusted**

504 **basis provided in subsection (c) for determining loss over the amount**
505 **realized.**

506 **(2) Amount realized. The amount realized from the sale or**
507 **other disposition of property shall be the sum of any money received**
508 **plus the fair market value of the property (other than money) received.**

509 **(3) Installment sales. Nothing in this section shall be**
510 **construed to prevent (in the case of property sold under contract**
511 **providing for payment in installments) the taxation of that portion of**
512 **any installment payment representing gain or profit in the year in**
513 **which such payment is received.**

514 **(b) Recognition of gain or loss. Except as otherwise provided in**
515 **this section, on the sale or exchange of property the entire amount of**
516 **the gain or loss, determined under subsection (a), shall be recognized.**

517 **(c) Adjusted basis for determining gain or loss.**

518 **(1) In general. The adjusted basis for determining the gain**

519 or loss from the sale or other disposition of property, whenever
520 acquired, shall be the basis determined under subsection (d) adjusted
521 as provided in subsection (e).

522 (2) Bargain sale to a charitable organization. If a deduction
523 is allowed under Section 27-7-17 (relating to charitable contributions)
524 by reason of a sale, then the adjusted basis for determining the gain
525 from such sale shall be that portion of the adjusted basis which bears
526 the same ratio to the adjusted basis as the amount realized bears to
527 the fair market value of the property.

528 (d) Basis of property.

529 (1) Property acquired after March 16, 1912. The basis for
530 ascertaining the gain derived or the loss sustained from the sale or
531 other disposition of property, real, personal or mixed, shall be, in the
532 case of property acquired after March 16, 1912, the cost of such
533 property, except as otherwise provided in this subsection.

534 **(2) Inventory property. If the property should have been**
535 **included in the last inventory, the basis shall be the last inventory**
536 **value thereof.**

537 **(3) Property acquired by gift. In the case of property**
538 **acquired by gift after January 1, 1936, the basis shall be the same as**
539 **that which it would have in the hands of the donor or the last**
540 **preceding owner by whom it was not acquired by gift. If the facts**
541 **necessary to determine such basis are unknown to the donee, the**
542 **commissioner shall, if possible, obtain such facts from such donor, or**
543 **last preceding owner, or any other person cognizant thereof. If the**
544 **commissioner finds it impossible to obtain such facts, the**
545 **commissioner shall establish a basis for the property from the best**
546 **information available. In the case of property acquired by gift on or**
547 **before January 1, 1936, the basis for ascertaining gain or loss from the**
548 **sale or other disposition thereof shall be the fair market price or value**

549 **of such property at the time of acquisition.**

550 **(4) Property acquired by bequests, devises and inheritance.**

551 **If personal property was acquired by specific bequest, or if real**
552 **property was acquired by general or specific devise or by intestacy,**
553 **the basis shall be the fair market value of the property at the time of**
554 **the death of the decedent. If the property was acquired by the**
555 **decedent's estate from the decedent, the basis in the hands of the**
556 **estate shall be the fair market value of the property at the time of the**
557 **death of the decedent. In all other cases, if the property was acquired**
558 **either by will or by intestacy, the basis shall be the fair market value of**
559 **the property at the time of the distribution to the taxpayer. In the case**
560 **of property transferred in trust to pay the income for life to or upon the**
561 **order or direction of the grantor, with the right reserved to the grantor**
562 **at all times prior to his death to revoke the trust, the basis of such**
563 **property in the hands of the persons entitled under the terms of the**

564 **trust instrument to the property after the grantor's death shall, after**
565 **such death, be the same as if the trust instrument had been a will**
566 **executed on the day of the grantor's death.**

567 **(5) Property acquired by a transfer in trust. If the property**
568 **was acquired by a transfer in trust (other than by a transfer in trust by**
569 **a bequest or devise), the basis shall be the same as it would be in the**
570 **hands of the grantor, increased in the amount of gain, or decreased in**
571 **the amount of loss, recognized to the grantor upon such transfer under**
572 **this section.**

573 **(6) Property acquired in tax-free exchanges. If the property**
574 **was acquired upon an exchange described in subsection (f), the basis**
575 **shall be the same as in the case of the property exchanged, decreased**
576 **in the amount of any money received by the taxpayer and increased in**
577 **the amount of gain or decreased in the amount of loss to the taxpayer**
578 **that was recognized upon such exchange by the terms of this act. If**

579 **the property so acquired consisted in part of the type of property**
580 **permitted by subsection (f) to be received without recognition of gain**
581 **or loss, and in part of other property, the basis provided in this**
582 **subsection shall be allocated between the properties (other than**
583 **money) received, and for the purpose of the allocation there shall be**
584 **assigned to such other property an amount equivalent to its fair market**
585 **value at the date of the exchange.**

586 **(7) Property acquired in tax-free distribution. If the property**
587 **consists of stock or securities distributed to a taxpayer in connection**
588 **with a transaction described in subsection (f), the basis in the case of**
589 **the stock in respect of which the distribution was made shall be**
590 **apportioned, under rules and regulations prescribed by the**
591 **commissioner, between such stock and the stock or securities**
592 **distributed.**

593 **(8) Property acquired in involuntary conversions. If the**

594 **property was acquired as the result of a compulsory or involuntary**
595 **conversion described in subsection (f), the basis shall be the same as**
596 **in the case of property so converted, decreased in the amount of any**
597 **money received by the taxpayer which was not expended in**
598 **accordance with the provisions of said subsection determining the**
599 **taxable status of the gain or loss upon such conversion, and increased**
600 **in the amount of gain or decreased in the amount of loss to the**
601 **taxpayer recognized upon such conversion.**

602 **(9) Property acquired in wash sales. If substantially**
603 **identical property was acquired in place of stock or securities which**
604 **were sold or disposed of and in respect of which loss was not allowed**
605 **as a deduction under Section 27-7-17(d), the basis in the case of**
606 **property so acquired shall be the basis in the case of the stock or**
607 **securities so sold or disposed of, except that, if the repurchase price**
608 **was in excess of the sales price, such basis shall be increased in the**

609 amount of the difference, or if the repurchase price was less than the
610 sales price, such basis shall be decreased in the amount of the
611 difference.

612 (10) Property acquired before March 16, 1912. The basis for
613 determining the gain or loss from the sale or other disposition of
614 property acquired before March 16, 1912, shall be:

615 (A) The cost of such property (or in the case of such
616 property as is described in subsection (d)(2) or (4) of this section the
617 basis as therein provided, or in the case of property acquired by gift or
618 transfer in trust, the fair market value of such property at the time of
619 such acquisition); or

620 (B) The fair market value of such property as of March
621 16, 1912, whichever is greater.

622 In determining the fair market value of stock in a corporation as
623 of March 16, 1912, due regard shall be given to the fair market value of

624 **the assets of the corporation as of that date.**

625 **(e) Adjustments to basis.**

626 **(1) In general. In computing the amount of gain or loss**
627 **from the sale or other disposition of property, proper adjustment shall**
628 **be made for any expenditure, receipt, loss or other item, properly**
629 **chargeable to capital account since the basis date. The cost or other**
630 **basis of the property shall also be diminished by the amount of the**
631 **deductions for exhaustion, wear and tear, obsolescence, amortization,**
632 **and depletion, which have since the acquisition of the property been**
633 **allowable in respect of such property whether or not such deductions**
634 **were claimed by the taxpayer or formerly allowed. In the case of stock,**
635 **the basis shall be diminished by the amount of distributions previously**
636 **made in respect to such stock, to the extent provided under this**
637 **section.**

638 **(2) Substituted basis. Whenever it appears that the basis of**

639 the property in the hands of a taxpayer is a substituted basis, then the
640 adjustments provided in subsection (e)(1) shall be made after first
641 making in respect of such substituted basis proper adjustments of a
642 similar nature in respect of the period during which the property was
643 held by the transferor, donor or grantor, or during which the other
644 property was held by the person for whom the basis is to be
645 determined. The term "substituted basis" as used in this subsection
646 means a basis determined under any provision of this section or under
647 any corresponding provision of a prior Income Tax Law, providing that
648 the basis shall be determined by reference to the basis in the hands of
649 a transferor, donor or grantor, or, by reference to other property held at
650 any time by the person for whom the basis is to be determined.

651 (f) Recognition of gain or loss -- exceptions.

652 (1) Exchange solely in kind.

653 (A) Property held for productive use or investment.

654 **No gain or loss shall be recognized if property held for productive use**
655 **in trade or business or for investment (not including stock in trade or**
656 **other property held primarily for sale, nor stocks, bonds, notes, choses**
657 **in action, certificates of trust or beneficial interest, or other securities**
658 **or evidence of indebtedness or interest) is exchanged solely for**
659 **property of a like kind to be held either for productive use in trade or**
660 **business or for investment.**

661 **(B) Stock for stock in same corporation. No gain or**
662 **loss shall be recognized if common stock in a corporation is**
663 **exchanged solely for common stock in the same corporation, or if**
664 **preferred stock in a corporation is exchanged solely for preferred**
665 **stock in the same corporation.**

666 **(C) Transfers to corporation controlled by transferor.**
667 **No gain or loss shall be recognized if property is transferred to a**
668 **corporation by one or more persons solely in exchange for stock or**

669 securities in such corporation, and if immediately after the exchange
670 such person or persons are in control of the corporation; but in the
671 case of an exchange by two (2) or more persons, this subsection shall
672 apply only if the amount of the stock and securities received by each is
673 substantially in proportion to his interest in the property prior to the
674 exchange.

675 (D) Stock for stock on reorganization. No gain or loss
676 shall be recognized if stock or securities in a corporation, a party to a
677 reorganization, are, in pursuance of the plan of reorganization,
678 exchanged solely for stock or securities in such corporation or in
679 another corporation, a party to a reorganization.

680 (2) Gain from exchanges not solely in kind. If an exchange
681 would be within the provisions of subsection (f)(1) of this section, if it
682 were not for the fact that the property received in exchange consists
683 not only of property permitted by subsection (f)(1) to be received

684 **without the recognition of gain, but also of other property or money,**
685 **then the gain, if any, to the recipient shall be recognized, but in an**
686 **amount not in excess of the sum of such money and the fair market**
687 **value of such other property so received.**

688 **(3) Loss from exchanges not solely in kind. If an exchange**
689 **would be within the provisions of subsection (f)(1) of this section, if it**
690 **were not for the fact that the property received in exchange consists**
691 **not only of property permitted by subsection (f)(1) to be received**
692 **without the recognition of gain or loss but also of other property or**
693 **money, then no loss from the exchange shall be recognized.**

694 **(4) Distribution of stock on reorganization. If in pursuance**
695 **of a plan of reorganization, there is distributed to a shareholder in a**
696 **corporation, a party to the reorganization, stock or securities in such**
697 **corporation or in another corporation, a party to the reorganization,**
698 **without the surrender by such shareholder of stock or securities in**

699 such corporation, no gain to the distributee from the receipt of such
700 stock or securities shall be recognized.

701 (5) Distribution with effect of taxable dividend. If a
702 distribution made in pursuance of a plan of reorganization is within the
703 provisions of subsection (f)(4) of this section, but has the effect of the
704 distribution of a taxable dividend, then there shall be taxed as a
705 dividend to each distributee such an amount of the gain recognized
706 under subsection (f)(2) as is not in excess of his rateable share of the
707 undistributed earnings and profits of the corporation. The remainder,
708 if any, of the gain recognized under subsection (f)(2) shall be taxed as
709 a gain from the exchange of property.

710 (6) Involuntary conversions. If property, as a result of its
711 destruction in whole or in part, theft, seizure or requisition or
712 condemnation, or threat or imminence thereof, is compulsorily or
713 involuntarily converted:

714 **(A) Into property similar or related in service or use to**
715 **the property so converted, no gain shall be recognized, but loss shall**
716 **be recognized;**

717 **(B) Into money, no gain shall be recognized if such**
718 **money is expended, within a period ending two (2) years after the close**
719 **of the first taxable year in which any part of the gain upon the**
720 **conversion is realized, in the acquisition of other property similar or**
721 **related in service or use to the property so converted, or in the**
722 **acquisition of control of a corporation owning such other property, or**
723 **in the establishment of a replacement fund, but loss shall be**
724 **recognized. If any part of the money is not so expended, the gain shall**
725 **be recognized to the extent of the money which is not so expended,**
726 **regardless of whether such money is received in one or more taxable**
727 **years and regardless of whether or not the money which is not so**
728 **expended constitutes gain. Provided, gain realized on property which**

729 **is compulsorily or involuntarily converted for public use under Title II,**
730 **Chapter 27, Mississippi Code of 1972, or any federal law relating to the**
731 **involuntary conversion of property for public use shall not be**
732 **recognized. Provided further, that gain realized on property which is**
733 **voluntarily converted for public use shall not be recognized after it**
734 **becomes evident that eminent domain proceedings are probable.**

735 **The provisions of this subsection relating to the nonrecognition**
736 **of gain, including the exception provided in subparagraph (B), shall**
737 **apply only to an owner of the converted property who has held title to**
738 **such property for a period at least three (3) years prior to the date of**
739 **the disposition of the converted property, provided that an owner who**
740 **acquired such property by bequest, devise, gift or inheritance shall be**
741 **excluded from this limitation, if the preceding owner acquired title to**
742 **such property at least three (3) years prior to the date of disposition.**

743 **(7) Property exchanged treated as equivalent of cash.**

744 **When property other than property specified in subsection (f)(1)(A) of**
745 **this section is exchanged for other property, the property received in**
746 **exchange shall, for the purpose of determining gain or loss, be treated**
747 **as the equivalent of cash to the amount of its fair market value.**

748 **(8) Distribution of assets of corporation. The distribution to**
749 **the taxpayer of the assets of a corporation shall be treated as a sale of**
750 **the stock or securities of the corporation owned by him, and the gain**
751 **or loss shall be computed accordingly.**

752 **(9) Organization of a corporation. In the case of the**
753 **organization of a corporation, the stock and securities received shall**
754 **be considered to take the place of property transferred therefor, and no**
755 **gain or loss shall be deemed to arise therefrom.**

756 **(10) Sales of certain interests in financial institutions**
757 **domiciled in Mississippi, domestic corporations, domestic limited**
758 **partnerships or domestic limited liability companies.**

759 **(A) No gain shall be recognized from the sale of**
760 **authorized shares in financial institutions domiciled in Mississippi and**
761 **domestic corporations, or partnership interests in domestic limited**
762 **partnerships and domestic limited liability companies, that have been**
763 **held for more than one (1) year; provided, however, that any gain that**
764 **would otherwise be excluded by this provision shall first be applied**
765 **against, and reduced by, any losses determined from sales or**
766 **transactions described by this provision if the losses were incurred in**
767 **the year of the gain or within the two (2) years preceding or**
768 **subsequent to the gain.**

769 **(B) No gain shall be recognized from the sale of all or**
770 **at least ninety percent (90%) of the assets in domestic corporations**
771 **except those assets that represent the ownership interest of another**
772 **entity provided:**

773 **(i) The assets of the corporation have been held**

774 **for more than one (1) year;**

775 **(ii) The corporation is totally liquidated and**
776 **dissolved within one (1) calendar year from the date of the sale of all or**
777 **at least ninety percent (90%) of the assets of the corporation; and**

778 **(iii) The depreciation and/or amortization that**
779 **has been taken on the assets of the corporation shall be recaptured**
780 **and taxed as ordinary income in the same manner as provided for in**
781 **Section 1245 of the Internal Revenue Code, as amended, and any**
782 **corresponding regulations relating to Section 1245 property. All**
783 **depreciation and/or amortization shall be recaptured up to cost prior to**
784 **any nonrecognition of gains.**

785 **(g) Reorganization defined. The term "reorganization" means:**

786 **(1) A statutory merger or consolidation;**

787 **(2) The acquisition by one (1) corporation, in exchange**
788 **solely for all or a part of its voting stock (or in exchange solely for all**

789 or a part of the voting stock of a corporation which is in control of the
790 acquiring corporation), of stock of another corporation if, immediately
791 after the acquisition, the acquiring corporation has control of such
792 other corporation, or of substantially all the properties of another
793 corporation;

794 (3) A transfer by a corporation of all or a part of its assets to
795 another corporation if immediately after the transfer the transferor, or
796 one or more of its shareholders (including persons who were
797 shareholders immediately before the transfer), or any combination
798 thereof, is in control of the corporation to which the assets are
799 transferred;

800 (4) A recapitalization; or

801 (5) A mere change in identity, form, or place of
802 organization, however effected.

803 (h) Party to a reorganization defined. The term "a party to a

804 **reorganization" includes a corporation resulting from a reorganization**
805 **and includes both corporations in the case of an acquisition by one (1)**
806 **corporation of at least a majority of the voting stock and at least a**
807 **majority of the total number of shares of all other classes of stock of**
808 **another corporation.**

809 **(i) Control defined. As used in this section, the term "control"**
810 **means the ownership of at least eighty percent (80%) of the voting**
811 **stock and at least eighty percent (80%) of the total number of shares of**
812 **all other classes of stock of the corporation.**

813 **(j) Special rules.**

814 **(1) Liquidation of subsidiaries. A transfer to a parent**
815 **corporation from its subsidiary of property distributed in complete**
816 **liquidation of the subsidiary shall result in no recognized gain or loss if**
817 **the basis of the property in the hands of the parent corporation is the**
818 **same as it was in the hands of the subsidiary.**

819 **(2) Gain or loss on sales or exchanges in connection with**
820 **certain liquidations. Corporations adopting a plan of complete**
821 **liquidation under the provisions of the Internal Revenue Code shall**
822 **recognize the gain or loss from the sale or exchange of property by the**
823 **corporation under said plan. The total gain or loss from the liquidating**
824 **distributions shall be recognized by the shareholders; however, a**
825 **credit for the tax paid by the liquidating corporation on the gain from**
826 **the sale or exchange of property under the plan of liquidation will be**
827 **allowed to the extent of any tax liability to the shareholders. The**
828 **corporation shall provide to the State Tax Commission a list of all**
829 **shareholders with their percentage of ownership, distribution, tax**
830 **credit allowed, and any other information requested.**

831 **(3) Distribution of stock and securities of a controlled**
832 **corporation. No gain shall be recognized on a distribution to a**
833 **stockholder of a corporation if such gain would not be recognized to**

834 such stockholder for federal income tax purposes under the provisions
835 of Section 355 of the federal Internal Revenue Code.

836 (4) Notwithstanding the other provisions of this section, a
837 corporation or other entity that is involved in restructuring,
838 reorganizing, distributing assets or profits, or changing ownership that
839 results in an adjustment to its asset basis is required to report a gain
840 in the year such transaction occurs on any such transaction when the
841 transaction involves assets owned or used in this state, or otherwise
842 represents assets owned or used in this state. If a transfer of income
843 or a change in asset valuation occurs on the tax records of the
844 taxpayer, such transaction shall result in taxation to this state to the
845 extent of the transfer of income or change in asset valuation.

846 (5) If a corporation or other entity makes an Internal
847 Revenue Code Section 338 election, or other similar election under
848 which the aggregate basis in assets are increased on the tax records

849 **of the taxpayer, then a similar election must also be made for**
850 **Mississippi purposes, but the gain must be recognized by the**
851 **corporation in which the increase in basis of the assets occurs. The**
852 **corporation or other entity is allowed to increase its basis by the**
853 **amount of gain recognized. An aggregate write-down of assets is not**
854 **allowed. The parent corporation shall recognize the gain on the**
855 **disposition of its stock.**

856 **(6) For state tax purposes, a corporation or other legal**
857 **entity is considered separate from its shareholders, affiliated**
858 **corporations or other entities. If a corporation or other legal entity**
859 **enters into any transaction that is for the benefit of its shareholders or**
860 **for the benefit of an affiliated corporation without an equal mutual**
861 **business benefit of the corporation, then, the transaction will be**
862 **adjusted or eliminated to arrive at taxable income to this state. All**
863 **transactions entered into by a corporation must be at "arms-length." If**

864 requested by the commissioner, the taxpayer must be able to
865 substantiate that the transaction occurred at "arms-length." If not, the
866 transaction may be adjusted to the satisfaction of the commissioner.
867 For purpose of this subsection, compliance with federal regulations
868 promulgated under Internal Revenue Code Section 482, shall
869 constitute "arms-length."

870 (k) Sale or exchange of residence.

871 (1) Loss on sale or exchange of residence. Loss from the
872 sale or exchange of property used by the taxpayer as his principal
873 residence is not recognized and cannot be deducted.

874 (2) Nonrecognition of gain. Gain shall be computed in
875 accordance with the provisions of the Internal Revenue Code, rules,
876 regulations and revenue procedures relating to the sale or exchange of
877 a personal residence not in direct conflict with the provisions of the
878 Mississippi Income Tax Law.

879 **(3) Gain on the sale or exchange of residence. A**
880 **recognizable gain on the sale or exchange of a personal residence**
881 **shall be included in gross income and treated as ordinary income.**

882 **(l) Distributions by corporations.**

883 **(1) Distributions of the property of a corporation, including**
884 **partial and complete liquidations, shall be recognized by the**
885 **distributing corporation and the gain or loss shall be computed on the**
886 **difference of the fair market value of the assets distributed and their**
887 **basis. The total gain or loss from the distributions to the shareholders**
888 **shall be recognized by the shareholders subject to subsections (f)(8)**
889 **and (j)(1); however, a credit for the tax paid by the distributing**
890 **corporation on the gain from the sale or exchange of property under**
891 **the plan of distribution will be allowed to the extent of any liability to**
892 **the shareholders. The corporation shall provide to the State Tax**
893 **Commission a list of all shareholders with their percentage of**

894 **ownership, distribution, tax credit allowed, and any other information**
895 **requested.**

896 **(2) Source of distributions. For the purposes of this act,**
897 **every distribution is made out of earnings or profits to the extent**
898 **thereof, and from the most recently accumulated earnings and profits.**
899 **Any earnings or profit accumulated, or increase in value of property**
900 **acquired, before March 16, 1912, may be distributed exempt from tax**
901 **(after the earnings and profits accumulated after March 16, 1912, have**
902 **been distributed), but any such tax-free distribution shall be applied**
903 **against and reduce the basis of the stock provided in subsection (d).**

904 **(3) Distributions in liquidation. Amounts distributed in**
905 **complete liquidation of a corporation shall be treated as in full**
906 **payment in exchange for the stock, and amounts distributed in partial**
907 **liquidation of a corporation shall be treated as in part or full payment in**
908 **exchange for the stock. The gain or loss to the distributee resulting**

909 **from such exchange shall be determined under subsection (a), but**
910 **shall be recognized only to the extent provided in subsection (f). In the**
911 **case of amounts distributed in partial liquidation, the part of such**
912 **distribution which is property chargeable to capital account shall not**
913 **be considered a distribution of earnings or profits within the meaning**
914 **of paragraph (2) of this subsection for the purpose of determining the**
915 **taxability of subsequent distributions by the corporations.**

916 **(4) Other distributions. If any distribution (not in partial or**
917 **complete liquidation) made by a corporation to its shareholders, is not**
918 **out of increase in value of property accrued before March 16, 1912, and**
919 **is not out of earnings or profits, then the amount of such distribution**
920 **shall be applied against and reduce the basis of the stock provided in**
921 **subsection (d), and if in excess of such basis, such excess shall be**
922 **taxable in the same manner as a gain from the sale or exchange of**
923 **property.**

924 **(5) Stock dividends. A stock dividend shall not be subject**
925 **to tax.**

926 **(6) Cancellation or redemption of stock. If a corporation**
927 **Cancels or redeems its stock (whether or not such stock was issued as**
928 **a stock dividend) at such time and in such manner as to make the**
929 **distribution and cancellation or redemption in whole or in part**
930 **essentially equivalent to the distribution of a taxable dividend, the**
931 **amount so distributed in redemption or cancellation of the stock, to the**
932 **extent that it represents a distribution of earnings or profits**
933 **accumulated after March 16, 1912, shall be treated as a taxable**
934 **dividend.**

935 **(7) "Amounts distributed in partial liquidation" defined. As**
936 **used in this subsection, the term "amounts distributed in partial**
937 **liquidation" means distribution by a corporation in complete**
938 **cancellation or redemption of a part of its stock, or one of a series of**

939 **distributions in complete cancellation or redemption of all or a portion**
940 **of its stock.**

941 **(8) Distributions of stock pursuant to order enforcing the**
942 **Antitrust Laws. Any distribution of stock which is made pursuant to**
943 **the order of any court enforcing the Antitrust Laws of the United**
944 **States, or of any state, shall be a distribution which is not out of**
945 **earnings and profits of the distributing corporation, but the value of**
946 **the stock so distributed shall be applied against and reduce the basis**
947 **of the stock of the distributing corporation provided in subsection (d),**
948 **and if in excess of such basis, such excess shall be taxable in the**
949 **same manner as a gain from the sale or exchange of property.**

950 **SECTION 2. Section 27-7-15, Mississippi Code of 1972, is**
951 **amended as follows:**

952 **[Through June 30, 2003, this section shall read as follows:]**

953 **27-7-15. (1) For the purposes of this article, except as otherwise**

954 **provided, the term "gross income" means and includes the income of a**
955 **taxpayer derived from salaries, wages, fees or compensation for**
956 **service, of whatever kind and in whatever form paid, including income**
957 **from governmental agencies and subdivisions thereof; or from**
958 **professions, vocations, trades, businesses, commerce or sales, or**
959 **renting or dealing in property, or reacquired property; also from**
960 **annuities, interest, rents, dividends, securities, insurance premiums,**
961 **reinsurance premiums, considerations for supplemental insurance**
962 **contracts, or the transaction of any business carried on for gain or**
963 **profit, or gains, or profits, and income derived from any source**
964 **whatever and in whatever form paid. The amount of all such items of**
965 **income shall be included in the gross income for the taxable year in**
966 **which received by the taxpayer. The amount by which an eligible**
967 **employee's salary is reduced pursuant to a salary reduction agreement**
968 **authorized under Section 25-17-5 shall be excluded from the term**

969 "gross income" within the meaning of this article.

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

973 (a) Dealers in property. Federal rules, regulations and
974 revenue procedures shall be followed with respect to installment sales
975 unless a transaction results in the shifting of income from inside the
976 state to outside the state.

977 (b) Casual sales of property. * * *

978 (i) Prior to January 1, 2001, federal rules, regulations
979 and revenue procedures shall be followed with respect to installment
980 sales except they shall be applied and administered as if H.R. 3594, the
981 Installment Tax Correction Act of 2000 of the 106th Congress had not
982 been enacted. This provision will generally affect taxpayers, reporting
983 on the accrual method of accounting, entering into installment note

984 agreements on or after December 17, 1999. Any gain or profit resulting
985 from the casual sale of property will be recognized in the year of sale.

986 (ii) From and after January 1, 2001, federal rules,
987 regulations and revenue procedures shall be followed with respect to
988 installment sales except as provided in this subparagraph (ii). Gain or
989 profit from the casual sale of property shall be recognized in the year
990 of sale. When a taxpayer recognizes gain on the casual sale of
991 property in which the gain is deferred for federal income tax purposes,
992 a taxpayer may elect to defer the payment of tax resulting from the gain
993 as allowed and to the extent provided under regulations prescribed by
994 the commissioner. If the payment of the tax is made on a deferred
995 basis, the tax shall be computed based on the applicable rate for the
996 income reported in the year the payment is made. Except as otherwise
997 provided in subparagraph (iii) of this paragraph (b), deferring the
998 payment of the tax shall not affect the liability for the tax. If at any time

999 the installment note is sold, contributed, transferred or disposed of in
1000 any manner and for any purpose by the original note holder, or the
1001 original note holder is merged, liquidated, dissolved or withdrawn from
1002 this state, then all deferred tax payments under this section shall
1003 immediately become due and payable.

1004 (iii) If the selling price of the property is reduced by
1005 any alteration in the terms of an installment note, including default by
1006 the purchaser, the gain to be recognized is recomputed based on the
1007 adjusted selling price in the same manner as for federal income tax
1008 purposes. The tax on this amount, less the previously paid tax on the
1009 recognized gain, is payable over the period of the remaining
1010 installments. If the tax on the previously recognized gain has been
1011 paid in full to this state, the return on which the payment was made
1012 may be amended for this purpose only. The statute of limitations in
1013 Section 27-7-49 shall not bar an amended return for this purpose.

1014 **(c) Reserves of insurance companies. In the case of**
1015 **insurance companies, any amounts in excess of the legally required**
1016 **reserves shall be included as gross income.**

1017 **(d) Affiliated companies or persons. As regards sales,**
1018 **exchanges or payments for services from one to another of affiliated**
1019 **companies or persons or under other circumstances where the**
1020 **relation between the buyer and seller is such that gross proceeds from**
1021 **the sale or the value of the exchange or the payment for services are**
1022 **not indicative of the true value of the subject matter of the sale,**
1023 **exchange or payment for services, the commissioner shall prescribe**
1024 **uniform and equitable rules for determining the true value of the gross**
1025 **income, gross sales, exchanges or payment for services, or require**
1026 **consolidated returns of affiliates.**

1027 **(e) Alimony and separate maintenance payments. The**
1028 **federal rules, regulations and revenue procedures in determining the**

1029 **deductibility and taxability of alimony payments shall be followed in**
1030 **this state.**

1031 **(f) Reimbursement for expenses of moving. There shall be**
1032 **included in gross income (as compensation for services) any amount**
1033 **received or accrued, directly or indirectly, by an individual as a**
1034 **payment for or reimbursement of expenses of moving from one**
1035 **residence to another residence which is attributable to employment or**
1036 **self-employment.**

1037 **(3) In the case of taxpayers other than residents, gross income**
1038 **includes gross income from sources within this state.**

1039 **(4) The words "gross income" do not include the following items**
1040 **of income which shall be exempt from taxation under this article:**

1041 **(a) The proceeds of life insurance policies and contracts**
1042 **paid upon the death of the insured. However, the income from the**
1043 **proceeds of such policies or contracts shall be included in the gross**

1044 **income.**

1045 **(b) The amount received by the insured as a return of**
1046 **premium or premiums paid by him under life insurance policies,**
1047 **endowment, or annuity contracts, either during the term or at maturity**
1048 **or upon surrender of the contract.**

1049 **(c) The value of property acquired by gift, bequest, devise**
1050 **or descent, but the income from such property shall be included in the**
1051 **gross income.**

1052 **(d) Interest upon the obligations of the United States or its**
1053 **possessions, or securities issued under the provisions of the Federal**
1054 **Farm Loan Act of July 17, 1916, or bonds issued by the War Finance**
1055 **Corporation, or obligations of the State of Mississippi or political**
1056 **subdivisions thereof.**

1057 **(e) The amounts received through accident or health**
1058 **insurance as compensation for personal injuries or sickness, plus the**

1059 **amount of any damages received for such injuries or such sickness or**
1060 **injuries, or through the War Risk Insurance Act, or any law for the**
1061 **benefit or relief of injured or disabled members of the military or naval**
1062 **forces of the United States.**

1063 **(f) Income received by any religious denomination or by any**
1064 **institution or trust for moral or mental improvements, religious, Bible,**
1065 **tract, charitable, benevolent, fraternal, missionary, hospital, infirmary,**
1066 **educational, scientific, literary, library, patriotic, historical or cemetery**
1067 **purposes or for two (2) or more of such purposes, if such income be**
1068 **used exclusively for carrying out one or more of such purposes.**

1069 **(g) Income received by a domestic corporation which is**
1070 **"taxable in another state" as this term is defined in this article, derived**
1071 **from business activity conducted outside this state. Domestic**
1072 **corporations taxable both within and without the state shall determine**
1073 **Mississippi income on the same basis as provided for foreign**

1074 **corporations under the provisions of this article.**

1075 **(h) In case of insurance companies, there shall be excluded**
1076 **from gross income such portion of actual premiums received from an**
1077 **individual policyholder as is paid back or credited to or treated as an**
1078 **abatement of premiums of such policyholder within the taxable year.**

1079 **(i) Income from dividends that has already borne a tax as**
1080 **dividend income under the provisions of this article, when such**
1081 **dividends may be specifically identified in the possession of the**
1082 **recipient.**

1083 **(j) Amounts paid by the United States to a person as added**
1084 **compensation for hazardous duty pay as a member of the Armed**
1085 **Forces of the United States in a combat zone designated by Executive**
1086 **Order of the President of the United States.**

1087 **(k) Amounts received as retirement allowances, pensions,**
1088 **annuities or optional retirement allowances paid under the federal**

1089 **Social Security Act, the Railroad Retirement Act, the Federal Civil**
1090 **Service Retirement Act, or any other retirement system of the United**
1091 **States government, retirement allowances paid under the Mississippi**
1092 **Public Employees' Retirement System, Mississippi Highway Safety**
1093 **Patrol Retirement System or any other retirement system of the State**
1094 **of Mississippi or any political subdivision thereof. The exemption**
1095 **allowed under this paragraph (k) shall be available to the spouse or**
1096 **other beneficiary at the death of the primary retiree.**

1097 **(l) Amounts received as retirement allowances, pensions,**
1098 **annuities or optional retirement allowances paid by any public or**
1099 **governmental retirement system not designated in subsection (k) or**
1100 **any private retirement system or plan of which the recipient was a**
1101 **member at any time during the period of his employment. Amounts**
1102 **received as a distribution under a Roth individual retirement account**
1103 **shall be treated in the same manner as provided under the Internal**

1104 **Revenue Code of 1986, as amended. The exemption allowed under**
1105 **this paragraph (l) shall be available to the spouse or other beneficiary**
1106 **at the death of the primary retiree.**

1107 **(m) Compensation not to exceed the aggregate sum of Five**
1108 **Thousand Dollars (\$5,000.00) for any taxable year received by a**
1109 **member of the National Guard or Reserve Forces of the United States**
1110 **as payment for inactive duty training, active duty training and state**
1111 **active duty.**

1112 **(n) Compensation received for active service as a member**
1113 **below the grade of commissioned officer and so much of the**
1114 **compensation as does not exceed the aggregate sum of Five Hundred**
1115 **Dollars (\$500.00) per month received for active service as a**
1116 **commissioned officer in the Armed Forces of the United States for any**
1117 **month during any part of which such members of the Armed Forces (i)**
1118 **served in a combat zone as designated by Executive Order of the**

1119 **President of the United States; or (ii) was hospitalized as a result of**
1120 **wounds, disease or injury incurred while serving in such combat zone.**

1121 **(o) The proceeds received from federal and state forestry**
1122 **incentives programs.**

1123 **(p) The amount representing the difference between the**
1124 **increase of gross income derived from sales for export outside the**
1125 **United States as compared to the preceding tax year wherein gross**
1126 **income from export sales was highest, and the net increase in**
1127 **expenses attributable to such increased exports. In the absence of**
1128 **direct accounting the ratio of net profits to total sales may be applied**
1129 **to the increase in export sales. This paragraph (p) shall only apply to**
1130 **businesses located in this state engaging in the international export of**
1131 **Mississippi goods and services. Such goods or services shall have at**
1132 **least fifty percent (50%) of value added at a location in Mississippi.**

1133 **(q) Amounts paid by the federal government for the**

1134 **construction of soil conservation systems as required by a**
1135 **conservation plan adopted pursuant to 16 USCS 3801 et seq.**

1136 **(r) The amount deposited in a medical savings account, and**
1137 **any interest accrued thereon, that is a part of a medical savings**
1138 **account program as specified in the Medical Savings Account Act**
1139 **under Sections 71-9-1 through 71-9-9; provided, however, that any**
1140 **amount withdrawn from such account for purposes other than paying**
1141 **eligible medical expense or to procure health coverage, shall be**
1142 **included in gross income.**

1143 **(s) Amounts paid by the Mississippi Soil and Water**
1144 **Conservation Commission from the Mississippi Soil and Water**
1145 **Cost-Share Program for the installation of water quality best**
1146 **management practices.**

1147 **(t) Dividends received by a holding corporation, as defined**
1148 **in Section 27-13-1, from a subsidiary corporation, as defined in Section**

1149 **27-13-1.**

1150 **(u) Interest, dividends, gains or income of any kind on any**
1151 **account in the Mississippi Affordable College Savings Trust Fund, as**
1152 **established in Sections 37-155-101 through 37-155-125, to the extent**
1153 **that such amounts remain on deposit in the MACS Trust Fund or are**
1154 **withdrawn pursuant to a qualified withdrawal, as defined in Section**
1155 **37-155-105.**

1156 **(v) Interest, dividends or gains accruing on the payments**
1157 **made pursuant to a prepaid tuition contract, as provided for in Section**
1158 **37-155-17.**

1159 **(w) Income resulting from transactions with a related**
1160 **member where the related member subject to tax under this chapter**
1161 **was required to, and did in fact, add back the expense of such**
1162 **transactions as required by Section 27-7-17(2). Under no**
1163 **circumstances may the exclusion from income exceed the deduction**

1164 **add back of the related member, nor shall the exclusion apply to any**
1165 **income otherwise excluded under this chapter.**

1166 **(5) Prisoners of war, missing in action-taxable status.**

1167 **(a) Members of the Armed Forces. Gross income does not**
1168 **include compensation received for active service as a member of the**
1169 **Armed Forces of the United States for any month during any part of**
1170 **which such member is in a missing status, as defined in paragraph (d)**
1171 **of this subsection, during the Vietnam Conflict as a result of such**
1172 **conflict.**

1173 **(b) Civilian employees. Gross income does not include**
1174 **compensation received for active service as an employee for any**
1175 **month during any part of which such employee is in a missing status**
1176 **during the Vietnam Conflict as a result of such conflict.**

1177 **(c) Period of conflict. For the purpose of this subsection,**
1178 **the Vietnam Conflict began February 28, 1961, and ends on the date**

1179 **designated by the President by Executive Order as the date of the**
1180 **termination of combatant activities in Vietnam. For the purpose of this**
1181 **subsection, an individual is in a missing status as a result of the**
1182 **Vietnam Conflict if immediately before such status began he was**
1183 **performing service in Vietnam or was performing service in Southeast**
1184 **Asia in direct support of military operations in Vietnam. "Southeast**
1185 **Asia" as used in this paragraph is defined to include Cambodia, Laos,**
1186 **Thailand and waters adjacent thereto.**

1187 **(d) "Missing status" means the status of an employee or**
1188 **member of the Armed Forces who is in active service and is officially**
1189 **carried or determined to be absent in a status of (i) missing; (ii)**
1190 **missing in action; (iii) interned in a foreign country; (iv) captured,**
1191 **beleaguered or besieged by a hostile force; or (v) detained in a foreign**
1192 **country against his will; but does not include the status of an**
1193 **employee or member of the Armed Forces for a period during which he**

1194 **is officially determined to be absent from his post of duty without**
1195 **authority.**

1196 **(e) "Active service" means active federal service by an**
1197 **employee or member of the Armed Forces of the United States in an**
1198 **active duty status.**

1199 **(f) "Employee" means one who is a citizen or national of the**
1200 **United States or an alien admitted to the United States for permanent**
1201 **residence and is a resident of the State of Mississippi and is employed**
1202 **in or under a federal executive agency or department of the Armed**
1203 **Forces.**

1204 **(g) "Compensation" means (i) basic pay; (ii) special pay;**
1205 **(iii) incentive pay; (iv) basic allowance for quarters; (v) basic**
1206 **allowance for subsistence; and (vi) station per diem allowances for not**
1207 **more than ninety (90) days.**

1208 **(h) If refund or credit of any overpayment of tax for any**

1209 **taxable year resulting from the application of subsection (5) of this**
1210 **section is prevented by the operation of any law or rule of law, such**
1211 **refund or credit of such overpayment of tax may, nevertheless, be**
1212 **made or allowed if claim therefor is filed with the State Tax**
1213 **Commission within three (3) years after the date of the enactment of**
1214 **this subsection.**

1215 **(i) The provisions of this subsection shall be effective for**
1216 **taxable years ending on or after February 28, 1961.**

1217 **(6) A shareholder of an S corporation, as defined in Section**
1218 **27-8-3(1)(g), shall take into account the income, loss, deduction or**
1219 **credit of the S corporation only to the extent provided in Section**
1220 **27-8-7(2).**

1221 **[From and after July 1, 2003, this section shall read as follows:]**

1222 **27-7-15. (1) For the purposes of this article, except as otherwise**
1223 **provided, the term "gross income" means and includes the income of a**

1224 **taxpayer derived from salaries, wages, fees or compensation for**
1225 **service, of whatever kind and in whatever form paid, including income**
1226 **from governmental agencies and subdivisions thereof; or from**
1227 **professions, vocations, trades, businesses, commerce or sales, or**
1228 **renting or dealing in property, or reacquired property; also from**
1229 **annuities, interest, rents, dividends, securities, insurance premiums,**
1230 **reinsurance premiums, considerations for supplemental insurance**
1231 **contracts, or the transaction of any business carried on for gain or**
1232 **profit, or gains, or profits, and income derived from any source**
1233 **whatever and in whatever form paid. The amount of all such items of**
1234 **income shall be included in the gross income for the taxable year in**
1235 **which received by the taxpayer. The amount by which an eligible**
1236 **employee's salary is reduced pursuant to a salary reduction agreement**
1237 **authorized under Section 25-17-5 shall be excluded from the term**
1238 **"gross income" within the meaning of this article.**

1239 **(2) In determining gross income for the purpose of this section,**
1240 **the following, under regulations prescribed by the commissioner, shall**
1241 **be applicable:**

1242 **(a) Dealers in property. Federal rules, regulations and**
1243 **revenue procedures shall be followed with respect to installment**
1244 **sales.**

1245 **(b) Casual sales of property. Federal rules, regulations and**
1246 **revenue procedures shall be followed with respect to installment**
1247 **sales.**

1248 **(i) The term "installment sale" means a disposition of**
1249 **property where at least one (1) payment is to be received after the**
1250 **close of the taxable year in which the disposition occurs.**

1251 **(ii) The term "installment method" means a method**
1252 **under which the income recognized for any taxable year from the**
1253 **disposition is that proportion of the payments received in that year**

1254 **which the gross profit (realized or to be realized when payment is**
1255 **completed) bears to the total contract price.**

1256 **(c) Reserves of insurance companies. In the case of**
1257 **insurance companies, any amounts in excess of the legally required**
1258 **reserves shall be included as gross income.**

1259 **(d) Affiliated companies or persons. As regards sales,**
1260 **exchanges or payments for services from one to another of affiliated**
1261 **companies or persons or under other circumstances where the**
1262 **relation between the buyer and seller is such that gross proceeds from**
1263 **the sale or the value of the exchange or the payment for services are**
1264 **not indicative of the true value of the subject matter of the sale,**
1265 **exchange or payment for services, the commissioner shall prescribe**
1266 **uniform and equitable rules for determining the true value of the gross**
1267 **income, gross sales, exchanges or payment for services, or require**
1268 **consolidated returns of affiliates.**

1269 **(e) Alimony and separate maintenance payments. The**
1270 **federal rules, regulations and revenue procedures in determining the**
1271 **deductibility and taxability of alimony payments shall be followed in**
1272 **this state.**

1273 **(f) Reimbursement for expenses of moving. There shall be**
1274 **included in gross income (as compensation for services) any amount**
1275 **received or accrued, directly or indirectly, by an individual as a**
1276 **payment for or reimbursement of expenses of moving from one**
1277 **residence to another residence which is attributable to employment or**
1278 **self-employment.**

1279 **(3) In the case of taxpayers other than residents, gross income**
1280 **includes gross income from sources within this state.**

1281 **(4) The words "gross income" do not include the following items**
1282 **of income which shall be exempt from taxation under this article:**

1283 **(a) The proceeds of life insurance policies and contracts**

1284 **paid upon the death of the insured. However, the income from the**
1285 **proceeds of such policies or contracts shall be included in the gross**
1286 **income.**

1287 **(b) The amount received by the insured as a return of**
1288 **premium or premiums paid by him under life insurance policies,**
1289 **endowment, or annuity contracts, either during the term or at maturity**
1290 **or upon surrender of the contract.**

1291 **(c) The value of property acquired by gift, bequest, devise**
1292 **or descent, but the income from such property shall be included in the**
1293 **gross income.**

1294 **(d) Interest upon the obligations of the United States or its**
1295 **possessions, or securities issued under the provisions of the Federal**
1296 **Farm Loan Act of July 17, 1916, or bonds issued by the War Finance**
1297 **Corporation, or obligations of the State of Mississippi or political**
1298 **subdivisions thereof.**

1299 **(e) The amounts received through accident or health**
1300 **insurance as compensation for personal injuries or sickness, plus the**
1301 **amount of any damages received for such injuries or such sickness or**
1302 **injuries, or through the War Risk Insurance Act, or any law for the**
1303 **benefit or relief of injured or disabled members of the military or naval**
1304 **forces of the United States.**

1305 **(f) Income received by any religious denomination or by any**
1306 **institution or trust for moral or mental improvements, religious, Bible,**
1307 **tract, charitable, benevolent, fraternal, missionary, hospital, infirmary,**
1308 **educational, scientific, literary, library, patriotic, historical or cemetery**
1309 **purposes or for two (2) or more of such purposes, if such income be**
1310 **used exclusively for carrying out one or more of such purposes.**

1311 **(g) Income received by a domestic corporation which is**
1312 **"taxable in another state" as this term is defined in this article, derived**
1313 **from business activity conducted outside this state. Domestic**

1314 **corporations taxable both within and without the state shall determine**
1315 **Mississippi income on the same basis as provided for foreign**
1316 **corporations under the provisions of this article.**

1317 **(h) In case of insurance companies, there shall be excluded**
1318 **from gross income such portion of actual premiums received from an**
1319 **individual policyholder as is paid back or credited to or treated as an**
1320 **abatement of premiums of such policyholder within the taxable year.**

1321 **(i) Income from dividends that has already borne a tax as**
1322 **dividend income under the provisions of this article, when such**
1323 **dividends may be specifically identified in the possession of the**
1324 **recipient.**

1325 **(j) Amounts paid by the United States to a person as added**
1326 **compensation for hazardous duty pay as a member of the Armed**
1327 **Forces of the United States in a combat zone designated by Executive**
1328 **Order of the President of the United States.**

1329 **(k) Amounts received as retirement allowances, pensions,**
1330 **annuities or optional retirement allowances paid under the federal**
1331 **Social Security Act, the Railroad Retirement Act, the Federal Civil**
1332 **Service Retirement Act, or any other retirement system of the United**
1333 **States government, retirement allowances paid under the Mississippi**
1334 **Public Employees' Retirement System, Mississippi Highway Safety**
1335 **Patrol Retirement System or any other retirement system of the State**
1336 **of Mississippi or any political subdivision thereof. The exemption**
1337 **allowed under this paragraph (k) shall be available to the spouse or**
1338 **other beneficiary at the death of the primary retiree.**

1339 **(l) Amounts received as retirement allowances, pensions,**
1340 **annuities or optional retirement allowances paid by any public or**
1341 **governmental retirement system not designated in subsection (k) or**
1342 **any private retirement system or plan of which the recipient was a**
1343 **member at any time during the period of his employment. Amounts**

1344 **received as a distribution under a Roth individual retirement account**
1345 **shall be treated in the same manner as provided under the Internal**
1346 **Revenue Code of 1986, as amended. The exemption allowed under**
1347 **this paragraph (l) shall be available to the spouse or other beneficiary**
1348 **at the death of the primary retiree.**

1349 **(m) Compensation not to exceed the aggregate sum of Five**
1350 **Thousand Dollars (\$5,000.00) for any taxable year received by a**
1351 **member of the National Guard or Reserve Forces of the United States**
1352 **as payment for inactive duty training, active duty training and state**
1353 **active duty.**

1354 **(n) Compensation received for active service as a member**
1355 **below the grade of commissioned officer and so much of the**
1356 **compensation as does not exceed the aggregate sum of Five Hundred**
1357 **Dollars (\$500.00) per month received for active service as a**
1358 **commissioned officer in the Armed Forces of the United States for any**

1359 **month during any part of which such members of the Armed Forces (i)**
1360 **served in a combat zone as designated by Executive Order of the**
1361 **President of the United States; or (ii) was hospitalized as a result of**
1362 **wounds, disease or injury incurred while serving in such combat zone.**

1363 **(o) The proceeds received from federal and state forestry**
1364 **incentives programs.**

1365 **(p) The amount representing the difference between the**
1366 **increase of gross income derived from sales for export outside the**
1367 **United States as compared to the preceding tax year wherein gross**
1368 **income from export sales was highest, and the net increase in**
1369 **expenses attributable to such increased exports. In the absence of**
1370 **direct accounting the ratio of net profits to total sales may be applied**
1371 **to the increase in export sales. This paragraph (p) shall only apply to**
1372 **businesses located in this state engaging in the international export of**
1373 **Mississippi goods and services. Such goods or services shall have at**

1374 **least fifty percent (50%) of value added at a location in Mississippi.**

1375 **(q) Amounts paid by the federal government for the**

1376 **construction of soil conservation systems as required by a**

1377 **conservation plan adopted pursuant to 16 USCS 3801 et seq.**

1378 **(r) The amount deposited in a medical savings account, and**

1379 **any interest accrued thereon, that is a part of a medical savings**

1380 **account program as specified in the Medical Savings Account Act**

1381 **under Sections 71-9-1 through 71-9-9; provided, however, that any**

1382 **amount withdrawn from such account for purposes other than paying**

1383 **eligible medical expense or to procure health coverage, shall be**

1384 **included in gross income.**

1385 **(s) Amounts paid by the Mississippi Soil and Water**

1386 **Conservation Commission from the Mississippi Soil and Water**

1387 **Cost-Share Program for the installation of water quality best**

1388 **management practices.**

1389 **(t) Dividends received by a holding corporation, as defined**
1390 **in Section 27-13-1, from a subsidiary corporation, as defined in Section**
1391 **27-13-1.**

1392 **(u) Interest, dividends, gains or income of any kind on any**
1393 **account in the Mississippi Affordable College Savings Trust Fund, as**
1394 **established in Sections 37-155-101 through 37-155-125, to the extent**
1395 **that such amounts remain on deposit in the MACS Trust Fund or are**
1396 **withdrawn pursuant to a qualified withdrawal, as defined in Section**
1397 **37-155-105.**

1398 **(v) Interest, dividends or gains accruing on the payments**
1399 **made pursuant to a prepaid tuition contract, as provided for in Section**
1400 **37-155-17.**

1401 **(5) Prisoners of war, missing in action-taxable status.**

1402 **(a) Members of the Armed Forces. Gross income does not**
1403 **include compensation received for active service as a member of the**

1404 **Armed Forces of the United States for any month during any part of**
1405 **which such member is in a missing status, as defined in paragraph (d)**
1406 **of this subsection, during the Vietnam Conflict as a result of such**
1407 **conflict.**

1408 **(b) Civilian employees. Gross income does not include**
1409 **compensation received for active service as an employee for any**
1410 **month during any part of which such employee is in a missing status**
1411 **during the Vietnam Conflict as a result of such conflict.**

1412 **(c) Period of conflict. For the purpose of this subsection,**
1413 **the Vietnam Conflict began February 28, 1961, and ends on the date**
1414 **designated by the President by Executive Order as the date of the**
1415 **termination of combatant activities in Vietnam. For the purpose of this**
1416 **subsection, an individual is in a missing status as a result of the**
1417 **Vietnam Conflict if immediately before such status began he was**
1418 **performing service in Vietnam or was performing service in Southeast**

1419 **Asia in direct support of military operations in Vietnam. "Southeast**
1420 **Asia" as used in this paragraph is defined to include Cambodia, Laos,**
1421 **Thailand and waters adjacent thereto.**

1422 **(d) "Missing status" means the status of an employee or**
1423 **member of the Armed Forces who is in active service and is officially**
1424 **carried or determined to be absent in a status of (i) missing; (ii)**
1425 **missing in action; (iii) interned in a foreign country; (iv) captured,**
1426 **beleaguered or besieged by a hostile force; or (v) detained in a foreign**
1427 **country against his will; but does not include the status of an**
1428 **employee or member of the Armed Forces for a period during which he**
1429 **is officially determined to be absent from his post of duty without**
1430 **authority.**

1431 **(e) "Active service" means active federal service by an**
1432 **employee or member of the Armed Forces of the United States in an**
1433 **active duty status.**

1434 **(f) "Employee" means one who is a citizen or national of the**
1435 **United States or an alien admitted to the United States for permanent**
1436 **residence and is a resident of the State of Mississippi and is employed**
1437 **in or under a federal executive agency or department of the Armed**
1438 **Forces.**

1439 **(g) "Compensation" means (i) basic pay; (ii) special pay;**
1440 **(iii) incentive pay; (iv) basic allowance for quarters; (v) basic**
1441 **allowance for subsistence; and (vi) station per diem allowances for not**
1442 **more than ninety (90) days.**

1443 **(h) If refund or credit of any overpayment of tax for any**
1444 **taxable year resulting from the application of subsection (5) of this**
1445 **section is prevented by the operation of any law or rule of law, such**
1446 **refund or credit of such overpayment of tax may, nevertheless, be**
1447 **made or allowed if claim therefor is filed with the State Tax**
1448 **Commission within three (3) years after the date of the enactment of**

1449 **this subsection.**

1450 **(i) The provisions of this subsection shall be effective for**
1451 **taxable years ending on or after February 28, 1961.**

1452 **(6) A shareholder of an S corporation, as defined in Section**
1453 **27-8-3(1)(g), shall take into account the income, loss, deduction or**
1454 **credit of the S corporation only to the extent provided in Section**
1455 **27-8-7(2).**

1456 **SECTION 3. Section 27-7-17, Mississippi Code of 1972, is**
1457 **amended as follows:**

1458 **[Through June 30, 2003, this section shall read as follows:]**

1459 **27-7-17. In computing taxable income, there shall be allowed as**
1460 **deductions:**

1461 **(1) Business deductions.**

1462 **(a) Business expenses. All the ordinary and necessary**
1463 **expenses paid or incurred during the taxable year in carrying on any**

1464 **trade or business, including a reasonable allowance for salaries or**
1465 **other compensation for personal services actually rendered;**
1466 **nonreimbursable traveling expenses incident to current employment,**
1467 **including a reasonable amount expended for meals and lodging while**
1468 **away from home in the pursuit of a trade or business; and rentals or**
1469 **other payments required to be made as a condition of the continued**
1470 **use or possession, for purposes of the trade or business of property to**
1471 **which the taxpayer has not taken or is not taking title or in which he**
1472 **had no equity. Expense incurred in connection with earning and**
1473 **distributing nontaxable income is not an allowable deduction.**

1474 **Limitations on entertainment expenses shall conform to the provisions**
1475 **of the Internal Revenue Code of 1986.**

1476 **(b) Interest. All interest paid or accrued during the taxable**
1477 **year on business indebtedness, except interest upon the indebtedness**
1478 **for the purchase of tax-free bonds, or any stocks, the dividends from**

1479 **which are nontaxable under the provisions of this article; provided,**
1480 **however, in the case of securities dealers, interest payments or**
1481 **accruals on loans, the proceeds of which are used to purchase**
1482 **tax-exempt securities, shall be deductible if income from otherwise**
1483 **tax-free securities is reported as income. Investment interest expense**
1484 **shall be limited to investment income. Interest expense incurred for**
1485 **the purchase of treasury stock, to pay dividends, or incurred as a**
1486 **result of an undercapitalized affiliated corporation may not be**
1487 **deducted unless an ordinary and necessary business purpose can be**
1488 **established to the satisfaction of the commissioner. For the purposes**
1489 **of this paragraph, the phrase "interest upon the indebtedness for the**
1490 **purchase of tax-free bonds" applies only to the indebtedness incurred**
1491 **for the purpose of directly purchasing tax-free bonds and does not**
1492 **apply to any other indebtedness incurred in the regular course of the**
1493 **taxpayer's business. Any corporation, association, organization or**

1494 other entity taxable under Section 27-7-23(c) shall allocate interest
1495 expense as provided in Section 27-7-23(c)(3)(I).

1496 (c) Taxes. Taxes paid or accrued within the taxable year,
1497 except state and federal income taxes, excise taxes based on or
1498 measured by net income, estate and inheritance taxes, gift taxes, cigar
1499 and cigarette taxes, gasoline taxes, and sales and use taxes unless
1500 incurred as an item of expense in a trade or business or in the
1501 production of taxable income. In the case of an individual, taxes
1502 permitted as an itemized deduction under the provisions of subsection
1503 (3)(a) of this section are to be claimed thereunder.

1504 (d) Business losses.

1505 (i) Losses sustained during the taxable year not
1506 compensated for by insurance or otherwise, if incurred in trade or
1507 business, or nonbusiness transactions entered into for profit.

1508 (ii) Limitations on losses from passive activities and

1509 **rental real estate shall conform to the provisions of the Internal**

1510 **Revenue Code of 1986.**

1511 **(e) Bad debts. Losses from debts ascertained to be**
1512 **worthless and charged off during the taxable year, if sustained in the**
1513 **conduct of the regular trade or business of the taxpayer; provided, that**
1514 **such losses shall be allowed only when the taxpayer has reported as**
1515 **income, on the accrual basis, the amount of such debt or account.**

1516 **(f) Depreciation. A reasonable allowance for exhaustion,**
1517 **wear and tear of property used in the trade or business, or rental**
1518 **property, and depreciation upon buildings based upon their reasonable**
1519 **value as of March 16, 1912, if acquired prior thereto, and upon cost if**
1520 **acquired subsequent to that date.**

1521 **(g) Depletion. In the case of mines, oil and gas wells, other**
1522 **natural deposits and timber, a reasonable allowance for depletion and**
1523 **for depreciation of improvements, based upon cost, including cost of**

1524 **development, not otherwise deducted, or fair market value as of March**
1525 **16, 1912, if acquired prior to that date, such allowance to be made**
1526 **upon regulations prescribed by the commissioner, with the approval of**
1527 **the Governor.**

1528 **(h) Contributions or gifts. Except as otherwise provided in**
1529 **subsection (3)(a) of this section for individuals, contributions or gifts**
1530 **made by corporations within the taxable year to corporations,**
1531 **organizations, associations or institutions, including Community Chest**
1532 **funds, foundations and trusts created solely and exclusively for**
1533 **religious, charitable, scientific or educational purposes, or for the**
1534 **prevention of cruelty to children or animals, no part of the net earnings**
1535 **of which inure to the benefit of any private stockholder or individual.**
1536 **This deduction shall be allowed in an amount not to exceed twenty**
1537 **percent (20%) of the net income. Such contributions or gifts shall be**
1538 **allowable as deductions only if verified under rules and regulations**

1539 **prescribed by the commissioner, with the approval of the Governor.**

1540 **Contributions made in any form other than cash shall be allowed as a**
1541 **deduction, subject to the limitations herein provided, in an amount**
1542 **equal to the actual market value of the contributions at the time the**
1543 **contribution is actually made and consummated.**

1544 **(i) Reserve funds - insurance companies. In the case of**
1545 **insurance companies the net additions required by law to be made**
1546 **within the taxable year to reserve funds when such reserve funds are**
1547 **maintained for the purpose of liquidating policies at maturity.**

1548 **(j) Annuity income. The sums, other than dividends, paid**
1549 **within the taxpayer year on policy or annuity contracts when such**
1550 **income has been included in gross income.**

1551 **(k) Contributions to employee pension plans.**
1552 **Contributions made by an employer to a plan or a trust forming part of**
1553 **a pension plan, stock bonus plan, disability or death-benefit plan, or**

1554 **profit-sharing plan of such employer for the exclusive benefit of some**
1555 **or all of his, their, or its employees, or their beneficiaries, shall be**
1556 **deductible from his, their, or its income only to the extent that, and for**
1557 **the taxable year in which, the contribution is deductible for federal**
1558 **income tax purposes under the Internal Revenue Code of 1986 and any**
1559 **other provisions of similar purport in the Internal Revenue Laws of the**
1560 **United States, and the rules, regulations, rulings and determinations**
1561 **promulgated thereunder, provided that:**

1562 **(i) The plan or trust be irrevocable.**

1563 **(ii) The plan or trust constitute a part of a pension**

1564 **plan, stock bonus plan, disability or death-benefit plan, or**

1565 **profit-sharing plan for the exclusive benefit of some or all of the**

1566 **employer's employees and/or officers, or their beneficiaries, for the**

1567 **purpose of distributing the corpus and income of the plan or trust to**

1568 **such employees and/or officers, or their beneficiaries.**

1569 **(iii) No part of the corpus or income of the plan or**
1570 **trust can be used for purposes other than for the exclusive benefit of**
1571 **employees and/or officers, or their beneficiaries.**

1572 **Contributions to all plans or to all trusts of real or personal**
1573 **property (or real and personal property combined) or to insured plans**
1574 **created under a retirement plan for which provision has been made**
1575 **under the laws of the United States of America, making such**
1576 **contributions deductible from income for federal income tax purposes,**
1577 **shall be deductible only to the same extent under the Income Tax Laws**
1578 **of the State of Mississippi.**

1579 **(l) Net operating loss carrybacks and carryovers. A net**
1580 **operating loss for any taxable year ending after December 31, 1993,**
1581 **and taxable years thereafter, shall be a net operating loss carryback to**
1582 **each of the three (3) taxable years preceding the taxable year of the**
1583 **loss. If the net operating loss for any taxable year is not exhausted by**

1584 **carrybacks to the three (3) taxable years preceding the taxable year of**
1585 **the loss, then there shall be a net operating loss carryover to each of**
1586 **the fifteen (15) taxable years following the taxable year of the loss**
1587 **beginning with any taxable year after December 31, 1991.**

1588 **For any taxable year ending after December 31, 1997, the period**
1589 **for net operating loss carrybacks and net operating loss carryovers**
1590 **shall be the same as those established by the Internal Revenue Code**
1591 **and the rules, regulations, rulings and determinations promulgated**
1592 **thereunder.**

1593 **The term "net operating loss," for the purposes of this paragraph,**
1594 **shall be the excess of the deductions allowed over the gross income;**
1595 **provided, however, the following deductions shall not be allowed in**
1596 **computing same:**

1597 **(i) No net operating loss deduction shall be allowed.**

1598 **(ii) No personal exemption deduction shall be allowed.**

1599 **(iii) Allowable deductions which are not attributable to**
1600 **taxpayer's trade or business shall be allowed only to the extent of the**
1601 **amount of gross income not derived from such trade or business.**

1602 **Any taxpayer entitled to a carryback period as provided by this**
1603 **paragraph may elect to relinquish the entire carryback period with**
1604 **respect to a net operating loss for any taxable year ending after**
1605 **December 31, 1991. The election shall be made in the manner**
1606 **prescribed by the State Tax Commission and shall be made by the due**
1607 **date, including extensions of time, for filing the taxpayer's return for**
1608 **the taxable year of the net operating loss for which the election is to be**
1609 **in effect. The election, once made for any taxable year, shall be**
1610 **irrevocable for that taxable year.**

1611 **(m) Amortization of pollution or environmental control**
1612 **facilities. Allowance of deduction. Every taxpayer, at his election,**
1613 **shall be entitled to a deduction for pollution or environmental control**

1614 **facilities to the same extent as that allowed under the Internal Revenue**
1615 **Code and the rules, regulations, rulings and determinations**
1616 **promulgated thereunder.**

1617 **(n) Dividend distributions - real estate investment trusts.**

1618 **"Real estate investment trust" (hereinafter referred to as REIT) shall**
1619 **have the meaning ascribed to such term in Section 856 of the federal**
1620 **Internal Revenue Code of 1986, as amended. A REIT is allowed a**
1621 **dividend distributed deduction if the dividend distributions meet the**
1622 **requirements of Section 857 or are otherwise deductible under Section**
1623 **858 or 860, federal Internal Revenue Code of 1986, as amended. In**
1624 **addition:**

1625 **(i) A dividend distributed deduction shall only be**
1626 **allowed for dividends paid by a publicly traded REIT. A qualified REIT**
1627 **subsidiary shall be allowed a dividend distributed deduction if its**
1628 **owner is a publicly traded REIT.**

1629 (ii) Income generated from real estate contributed or
1630 sold to a REIT by a shareholder or related party shall not give rise to a
1631 dividend distributed deduction, unless the shareholder or related party
1632 would have received the dividend distributed deduction under this
1633 chapter.

1634 (iii) A holding corporation receiving a dividend from a
1635 REIT shall not be allowed the deduction in Section 27-7-15(4)(t).

1636 (iv) Any REIT not allowed the dividend distributed
1637 deduction in the federal Internal Revenue Code of 1986, as amended,
1638 shall not be allowed a dividend distributed deduction under this
1639 chapter.

1640 The commissioner is authorized to promulgate rules and
1641 regulations consistent with the provisions in Section 269 of the federal
1642 Internal Revenue Code of 1986, as amended, so as to prevent the
1643 evasion or avoidance of state income tax.

1644 **(o) Contributions to college savings trust fund accounts,**
1645 **Contributions or payments to a Mississippi Affordable College Savings**
1646 **Program account are deductible as provided under Section 37-155-113.**
1647 **Payments made under a prepaid tuition contract entered into under**
1648 **the Mississippi Prepaid Affordable College Tuition Program are**
1649 **deductible as provided under Section 37-155-17.**

1650 **(2) Restrictions on the deductibility of certain intangible**
1651 **expenses and interest expenses with a related member.**

1652 **(a) As used in this subsection (2):**

1653 **(i) "Intangible expenses and costs" include:**

1654 **1. Expenses, losses and costs for, related to, or**
1655 **in connection directly or indirectly with the direct or indirect**
1656 **acquisition, use, maintenance or management, ownership, sale,**
1657 **exchange or any other disposition of intangible property to the extent**
1658 **such amounts are allowed as deductions or costs in determining**

1659 **taxable income under this chapter:**

1660 **2. Expenses or losses related to or incurred in**

1661 **connection directly or indirectly with factoring transactions or**

1662 **discounting transactions;**

1663 **3. Royalty, patent, technical and copyright fees;**

1664 **4. Licensing fees; and**

1665 **5. Other similar expenses and costs.**

1666 **(ii) "Intangible property" means patents, patent**

1667 **applications, trade names, trademarks, service marks, copyrights and**

1668 **similar types of intangible assets.**

1669 **(iii) "Interest expenses and cost" means amounts**

1670 **directly or indirectly allowed as deductions for purposes of**

1671 **determining taxable income under this chapter to the extent such**

1672 **interest expenses and costs are directly or indirectly for, related to, or**

1673 **in connection with the direct or indirect acquisition maintenance,**

1674 management, ownership, sale, exchange or disposition of intangible
1675 property.

1676 (iv) "Related member" means an entity or person that,
1677 with respect to the taxpayer during all or any portion of the taxable
1678 year, is a related entity, a component member as defined in the Internal
1679 Revenue Code, or is an entity or a person to or from whom there is
1680 attribution of stock ownership in accordance with Section 1563(e) of
1681 the Internal Revenue Code.

1682 (v) "Related entity" means:

1683 1. A stockholder who is an individual or a
1684 member of the stockholder's family, as defined in regulations
1685 prescribed by the commissioner, if the stockholder and the members
1686 of the stockholder's family own, directly, indirectly, beneficially or
1687 constructively, in the aggregate, at least fifty percent (50%) of the value
1688 of the taxpayer's outstanding stock;

1689 **2. A stockholder, or a stockholder's partnership,**
1690 **limited liability company, estate, trust or corporation, if the stockholder**
1691 **and the stockholder's partnerships, limited liability companies,**
1692 **estates, trusts and corporations own, directly, indirectly, beneficially or**
1693 **constructively, in the aggregate, at least fifty percent (50%) of the value**
1694 **of the taxpayer's outstanding stock;**

1695 **3. A corporation, or a party related to the**
1696 **corporation in a manner that would require an attribution of stock from**
1697 **the corporation to the party or from the party to the corporation, if the**
1698 **taxpayer owns, directly, indirectly, beneficially or constructively, at**
1699 **least fifty percent (50%) of the value of the corporation's outstanding**
1700 **stock under regulation prescribed by the commissioner;**

1701 **4. Any entity or person which would be a related**
1702 **member under this section if the taxpayer were considered a**
1703 **corporation for purposes of this section.**

1704 **(b) In computing net income, a taxpayer shall add back**
1705 **otherwise deductible interest expenses and costs and intangible**
1706 **expenses and costs directly or indirectly paid, accrued to or incurred,**
1707 **in connection directly or indirectly with one or more direct or indirect**
1708 **transactions with one or more related members.**

1709 **(c) The adjustments required by this subsection shall not**
1710 **apply to such portion of interest expenses and costs and intangible**
1711 **expenses and costs that the taxpayer can establish meets one (1) of**
1712 **the following:**

1713 **(i) The related member directly or indirectly paid,**
1714 **accrued or incurred such portion to a person during the same income**
1715 **year who is not a related member; or**

1716 **(ii) The transaction giving rise to the interest**
1717 **expenses and costs or intangible expenses and costs between the**
1718 **taxpayer and related member was done primarily for a valid business**

1719 purpose other than the avoidance of taxes; or

1720 (iii) The related member to which the income is paid is

1721 subject to taxation by another state; or

1722 (iv) The related member is not primarily engaged in

1723 the acquisition, use, maintenance or management, ownership, sale,

1724 exchange or any other disposition of intangible property.

1725 (d) Nothing in this subsection shall require a taxpayer to

1726 add to its net income more than once any amount of interest expenses

1727 and costs or intangible expenses and costs that the taxpayer pays,

1728 accrues or incurs to a related member.

1729 (e) The commissioner may prescribe such regulations as

1730 necessary or appropriate to carry out the purposes of this subsection,

1731 including, but not limited to, clarifying definitions of terms, rules of

1732 stock attribution, factoring and discount transactions.

1733 (3) Individual nonbusiness deductions.

1734 **(a) The amount allowable for individual nonbusiness**
1735 **itemized deductions for federal income tax purposes, except the**
1736 **deduction for state income taxes paid, where the individual is eligible**
1737 **to elect, for the taxable year, to itemize deductions on his federal**
1738 **return; or**

1739 **(b) In lieu of the individual nonbusiness itemized**
1740 **deductions authorized in paragraph (a), for all purposes other than**
1741 **ordinary and necessary expenses paid or incurred during the taxable**
1742 **year in carrying on any trade or business, an optional standard**
1743 **deduction of:**

1744 **(i) Three Thousand Four Hundred Dollars (\$3,400.00)**
1745 **through calendar year 1997, Four Thousand Two Hundred Dollars**
1746 **(\$4,200.00) for the calendar year 1998 and Four Thousand Six Hundred**
1747 **Dollars (\$4,600.00) for each calendar year thereafter in the case of**
1748 **married individuals filing a joint or combined return;**

1749 **(ii) One Thousand Seven Hundred Dollars (\$1,700.00)**

1750 **through calendar year 1997, Two Thousand One Hundred Dollars**

1751 **(\$2,100.00) for the calendar year 1998 and Two Thousand Three**

1752 **Hundred Dollars (\$2,300.00) for each calendar year thereafter in the**

1753 **case of married individuals filing separate returns;**

1754 **(iii) Three Thousand Four Hundred Dollars (\$3,400.00)**

1755 **in the case of a head of family; or**

1756 **(iv) Two Thousand Three Hundred Dollars (\$2,300.00)**

1757 **in the case of an individual who is not married.**

1758 **In the case of a husband and wife living together, having separate**

1759 **incomes, and filing combined returns, the standard deduction**

1760 **authorized may be divided in any manner they choose. In the case of**

1761 **separate returns by a husband and wife, the standard deduction shall**

1762 **not be allowed to either if the taxable income of one of the spouses is**

1763 **determined without regard to the standard deduction.**

1764 **(c) A nonresident individual shall be allowed the same**
1765 **individual nonbusiness deductions as are authorized for resident**
1766 **individuals in paragraph (a) or (b) of this subsection; however, the**
1767 **nonresident individual is entitled only to that proportion of the**
1768 **individual nonbusiness deductions as his net income from sources**
1769 **within the State of Mississippi bears to his total or entire net income**
1770 **from all sources.**

1771 **(3) Nothing in this section shall permit the same item to be**
1772 **deducted more than once, either in fact or in effect.**

1773 **[From and after July 1, 2003, this section shall read as follows:]**

1774 **27-7-17. In computing taxable income, there shall be allowed as**
1775 **deductions:**

1776 **(1) Business deductions.**

1777 **(a) Business expenses. All the ordinary and necessary**
1778 **expenses paid or incurred during the taxable year in carrying on any**

1779 **trade or business, including a reasonable allowance for salaries or**
1780 **other compensation for personal services actually rendered;**
1781 **nonreimbursable traveling expenses incident to current employment,**
1782 **including a reasonable amount expended for meals and lodging while**
1783 **away from home in the pursuit of a trade or business; and rentals or**
1784 **other payments required to be made as a condition of the continued**
1785 **use or possession, for purposes of the trade or business of property to**
1786 **which the taxpayer has not taken or is not taking title or in which he**
1787 **had no equity. Expense incurred in connection with earning and**
1788 **distributing nontaxable income is not an allowable deduction.**
1789 **Limitations on entertainment expenses shall conform to the provisions**
1790 **of the Internal Revenue Code of 1986.**

1791 **(b) Interest. All interest paid or accrued during the taxable**
1792 **year on business indebtedness, except interest upon the indebtedness**
1793 **for the purchase of tax-free bonds, or any stocks, the dividends from**

1794 **which are nontaxable under the provisions of this article; provided,**
1795 **however, in the case of securities dealers, interest payments or**
1796 **accruals on loans, the proceeds of which are used to purchase**
1797 **tax-exempt securities, shall be deductible if income from otherwise**
1798 **tax-free securities is reported as income. Investment interest expense**
1799 **shall be limited to investment income. Interest expense incurred for**
1800 **the purchase of treasury stock, to pay dividends, or incurred as a**
1801 **result of an undercapitalized affiliated corporation may not be**
1802 **deducted unless an ordinary and necessary business purpose can be**
1803 **established to the satisfaction of the commissioner. For the purposes**
1804 **of this paragraph, the phrase "interest upon the indebtedness for the**
1805 **purchase of tax-free bonds" applies only to the indebtedness incurred**
1806 **for the purpose of directly purchasing tax-free bonds and does not**
1807 **apply to any other indebtedness incurred in the regular course of the**
1808 **taxpayer's business. Any corporation, association, organization or**

1809 **other entity taxable under Section 27-7-23(c) shall allocate interest**
1810 **expense as provided in Section 27-7-23(c)(4)(H).**

1811 **(c) Taxes. Taxes paid or accrued within the taxable year,**
1812 **except state and federal income taxes, excise taxes based on or**
1813 **measured by net income, estate and inheritance taxes, gift taxes, cigar**
1814 **and cigarette taxes, gasoline taxes, and sales and use taxes unless**
1815 **incurred as an item of expense in a trade or business or in the**
1816 **production of taxable income. In the case of an individual, taxes**
1817 **permitted as an itemized deduction under the provisions of subsection**
1818 **(2)(a) of this section are to be claimed thereunder.**

1819 **(d) Business losses.**

1820 **(i) Losses sustained during the taxable year not**
1821 **compensated for by insurance or otherwise, if incurred in trade or**
1822 **business, or nonbusiness transactions entered into for profit.**

1823 **(ii) Limitations on losses from passive activities and**

1824 **rental real estate shall conform to the provisions of the Internal**

1825 **Revenue Code of 1986.**

1826 **(e) Bad debts. Losses from debts ascertained to be**
1827 **worthless and charged off during the taxable year, if sustained in the**
1828 **conduct of the regular trade or business of the taxpayer; provided, that**
1829 **such losses shall be allowed only when the taxpayer has reported as**
1830 **income, on the accrual basis, the amount of such debt or account.**

1831 **(f) Depreciation. A reasonable allowance for exhaustion,**
1832 **wear and tear of property used in the trade or business, or rental**
1833 **property, and depreciation upon buildings based upon their reasonable**
1834 **value as of March 16, 1912, if acquired prior thereto, and upon cost if**
1835 **acquired subsequent to that date.**

1836 **(g) Depletion. In the case of mines, oil and gas wells, other**
1837 **natural deposits and timber, a reasonable allowance for depletion and**
1838 **for depreciation of improvements, based upon cost, including cost of**

1839 **development, not otherwise deducted, or fair market value as of March**
1840 **16, 1912, if acquired prior to that date, such allowance to be made**
1841 **upon regulations prescribed by the commissioner, with the approval of**
1842 **the Governor.**

1843 **(h) Contributions or gifts. Except as otherwise provided in**
1844 **subsection (2)(a) of this section for individuals, contributions or gifts**
1845 **made by corporations within the taxable year to corporations,**
1846 **organizations, associations or institutions, including Community Chest**
1847 **funds, foundations and trusts created solely and exclusively for**
1848 **religious, charitable, scientific or educational purposes, or for the**
1849 **prevention of cruelty to children or animals, no part of the net earnings**
1850 **of which inure to the benefit of any private stockholder or individual.**
1851 **This deduction shall be allowed in an amount not to exceed twenty**
1852 **percent (20%) of the net income. Such contributions or gifts shall be**
1853 **allowable as deductions only if verified under rules and regulations**

1854 **prescribed by the commissioner, with the approval of the Governor.**

1855 **Contributions made in any form other than cash shall be allowed as a**
1856 **deduction, subject to the limitations herein provided, in an amount**
1857 **equal to the actual market value of the contributions at the time the**
1858 **contribution is actually made and consummated.**

1859 **(i) Reserve funds - insurance companies. In the case of**
1860 **insurance companies the net additions required by law to be made**
1861 **within the taxable year to reserve funds when such reserve funds are**
1862 **maintained for the purpose of liquidating policies at maturity.**

1863 **(j) Annuity income. The sums, other than dividends, paid**
1864 **within the taxpayer year on policy or annuity contracts when such**
1865 **income has been included in gross income.**

1866 **(k) Contributions to employee pension plans.**
1867 **Contributions made by an employer to a plan or a trust forming part of**
1868 **a pension plan, stock bonus plan, disability or death-benefit plan, or**

1869 **profit-sharing plan of such employer for the exclusive benefit of some**
1870 **or all of his, their, or its employees, or their beneficiaries, shall be**
1871 **deductible from his, their, or its income only to the extent that, and for**
1872 **the taxable year in which, the contribution is deductible for federal**
1873 **income tax purposes under the Internal Revenue Code of 1986 and any**
1874 **other provisions of similar purport in the Internal Revenue Laws of the**
1875 **United States, and the rules, regulations, rulings and determinations**
1876 **promulgated thereunder, provided that:**

1877 **(i) The plan or trust be irrevocable.**

1878 **(ii) The plan or trust constitute a part of a pension**

1879 **plan, stock bonus plan, disability or death-benefit plan, or**

1880 **profit-sharing plan for the exclusive benefit of some or all of the**

1881 **employer's employees and/or officers, or their beneficiaries, for the**

1882 **purpose of distributing the corpus and income of the plan or trust to**

1883 **such employees and/or officers, or their beneficiaries.**

1884 **(iii) No part of the corpus or income of the plan or**
1885 **trust can be used for purposes other than for the exclusive benefit of**
1886 **employees and/or officers, or their beneficiaries.**

1887 **Contributions to all plans or to all trusts of real or personal**
1888 **property (or real and personal property combined) or to insured plans**
1889 **created under a retirement plan for which provision has been made**
1890 **under the laws of the United States of America, making such**
1891 **contributions deductible from income for federal income tax purposes,**
1892 **shall be deductible only to the same extent under the Income Tax Laws**
1893 **of the State of Mississippi.**

1894 **(l) Net operating loss carrybacks and carryovers. A net**
1895 **operating loss for any taxable year ending after December 31, 1993,**
1896 **and taxable years thereafter, shall be a net operating loss carryback to**
1897 **each of the three (3) taxable years preceding the taxable year of the**
1898 **loss. If the net operating loss for any taxable year is not exhausted by**

1899 **carrybacks to the three (3) taxable years preceding the taxable year of**
1900 **the loss, then there shall be a net operating loss carryover to each of**
1901 **the fifteen (15) taxable years following the taxable year of the loss**
1902 **beginning with any taxable year after December 31, 1991.**

1903 **For any taxable year ending after December 31, 1997, the period**
1904 **for net operating loss carrybacks and net operating loss carryovers**
1905 **shall be the same as those established by the Internal Revenue Code**
1906 **and the rules, regulations, rulings and determinations promulgated**
1907 **thereunder.**

1908 **The term "net operating loss," for the purposes of this paragraph,**
1909 **shall be the excess of the deductions allowed over the gross income;**
1910 **provided, however, the following deductions shall not be allowed in**
1911 **computing same:**

1912 **(i) No net operating loss deduction shall be allowed.**

1913 **(ii) No personal exemption deduction shall be allowed.**

1914 **(iii) Allowable deductions which are not attributable to**
1915 **taxpayer's trade or business shall be allowed only to the extent of the**
1916 **amount of gross income not derived from such trade or business.**

1917 **Any taxpayer entitled to a carryback period as provided by this**
1918 **paragraph may elect to relinquish the entire carryback period with**
1919 **respect to a net operating loss for any taxable year ending after**
1920 **December 31, 1991. The election shall be made in the manner**
1921 **prescribed by the State Tax Commission and shall be made by the due**
1922 **date, including extensions of time, for filing the taxpayer's return for**
1923 **the taxable year of the net operating loss for which the election is to be**
1924 **in effect. The election, once made for any taxable year, shall be**
1925 **irrevocable for that taxable year.**

1926 **(m) Amortization of pollution or environmental control**
1927 **facilities. Allowance of deduction. Every taxpayer, at his election,**
1928 **shall be entitled to a deduction for pollution or environmental control**

1929 **facilities to the same extent as that allowed under the Internal Revenue**
1930 **Code and the rules, regulations, rulings and determinations**
1931 **promulgated thereunder.**

1932 **(n) Dividend distributions - real estate investment trusts.**

1933 **"Real estate investment trust" (hereinafter referred to as REIT) shall**
1934 **have the meaning ascribed to such term in Section 856 of the federal**
1935 **Internal Revenue Code of 1986, as amended. A REIT is allowed a**
1936 **dividend distributed deduction if the dividend distributions meet the**
1937 **requirements of Section 857 or are otherwise deductible under Section**
1938 **858 or 860, federal Internal Revenue Code of 1986, as amended. In**
1939 **addition:**

1940 **(i) A dividend distributed deduction shall only be**
1941 **allowed for dividends paid by a publicly traded REIT. A qualified REIT**
1942 **subsidiary shall be allowed a dividend distributed deduction if its**
1943 **owner is a publicly traded REIT.**

1944 **(ii) Income generated from real estate contributed or**
1945 **sold to a REIT by a shareholder or related party shall not give rise to a**
1946 **dividend distributed deduction, unless the shareholder or related party**
1947 **would have received the dividend distributed deduction under this**
1948 **chapter.**

1949 **(iii) A holding corporation receiving a dividend from a**
1950 **REIT shall not be allowed the deduction in Section 27-7-15(4)(t).**

1951 **(iv) Any REIT not allowed the dividend distributed**
1952 **deduction in the federal Internal Revenue Code of 1986, as amended,**
1953 **shall not be allowed a dividend distributed deduction under this**
1954 **chapter.**

1955 **The commissioner is authorized to promulgate rules and**
1956 **regulations consistent with the provisions in Section 269 of the federal**
1957 **Internal Revenue Code of 1986, as amended, so as to prevent the**
1958 **evasion or avoidance of state income tax.**

1959 **(o) Contributions to college savings trust fund accounts,**
1960 **Contributions or payments to a Mississippi Affordable College Savings**
1961 **Program account are deductible as provided under Section 37-155-113.**
1962 **Payments made under a prepaid tuition contract entered into under**
1963 **the Mississippi Prepaid Affordable College Tuition Program are**
1964 **deductible as provided under Section 37-155-17.**

1965 **(2) Individual nonbusiness deductions.**

1966 **(a) The amount allowable for individual nonbusiness**
1967 **itemized deductions for federal income tax purposes, except the**
1968 **deduction for state income taxes paid, where the individual is eligible**
1969 **to elect, for the taxable year, to itemize deductions on his federal**
1970 **return; or**

1971 **(b) In lieu of the individual nonbusiness itemized**
1972 **deductions authorized in paragraph (a), for all purposes other than**
1973 **ordinary and necessary expenses paid or incurred during the taxable**

1974 **year in carrying on any trade or business, an optional standard**

1975 **deduction of:**

1976 **(i) Three Thousand Four Hundred Dollars (\$3,400.00)**

1977 **through calendar year 1997, Four Thousand Two Hundred Dollars**

1978 **(\$4,200.00) for the calendar year 1998 and Four Thousand Six Hundred**

1979 **Dollars (\$4,600.00) for each calendar year thereafter in the case of**

1980 **married individuals filing a joint or combined return;**

1981 **(ii) One Thousand Seven Hundred Dollars (\$1,700.00)**

1982 **through calendar year 1997, Two Thousand One Hundred Dollars**

1983 **(\$2,100.00) for the calendar year 1998 and Two Thousand Three**

1984 **Hundred Dollars (\$2,300.00) for each calendar year thereafter in the**

1985 **case of married individuals filing separate returns;**

1986 **(iii) Three Thousand Four Hundred Dollars (\$3,400.00)**

1987 **in the case of a head of family; or**

1988 **(iv) Two Thousand Three Hundred Dollars (\$2,300.00)**

1989 **in the case of an individual who is not married.**

1990 **In the case of a husband and wife living together, having separate**
1991 **incomes, and filing combined returns, the standard deduction**
1992 **authorized may be divided in any manner they choose. In the case of**
1993 **separate returns by a husband and wife, the standard deduction shall**
1994 **not be allowed to either if the taxable income of one of the spouses is**
1995 **determined without regard to the standard deduction.**

1996 **(c) A nonresident individual shall be allowed the same**
1997 **individual nonbusiness deductions as are authorized for resident**
1998 **individuals in paragraph (a) or (b) of this subsection; however, the**
1999 **nonresident individual is entitled only to that proportion of the**
2000 **individual nonbusiness deductions as his net income from sources**
2001 **within the State of Mississippi bears to his total or entire net income**
2002 **from all sources.**

2003 **(3) Nothing in this section shall permit the same item to be**

2004 **deducted more than once, either in fact or in effect.**

2005 **SECTION 4. Section 27-7-23, Mississippi Code of 1972, is**

2006 **amended as follows:**

2007 **27-7-23. (a) Definitions.**

2008 **(1) "Doing business" means the operation of any business**

2009 **enterprise or activity in Mississippi for financial profit or economic**

2010 **gain, including, but not limited to, the following:**

2011 **(A) The regular maintenance of an office or other**

2012 **place of business in Mississippi; or**

2013 **(B) The regular maintenance in Mississippi of an**

2014 **inventory of merchandise or material for sale, distribution or**

2015 **manufacture, regardless of whether kept on the premises of the**

2016 **taxpayer or otherwise; or**

2017 **(C) The selling or distributing of merchandise to**

2018 **customers in Mississippi directly from a company-owned or operated**

2019 **vehicle when title to the merchandise is transferred from the seller or**
2020 **distributor to the customer at the time of the sale or distribution**
2021 **(transient selling); or**

2022 **(D) The regular rendering of service to clients or**
2023 **customers in Mississippi in person or by agents or employees; or**

2024 **(E) The owning, renting or operating of business or**
2025 **income-producing property, real or personal, in Mississippi; or**

2026 **(F) The performing of contracts, prime or sublet work,**
2027 **for the construction, repair or renovation of real or personal property.**

2028 **(2) "Business income" means income of any type or class,**
2029 **and from any activity that meets the relationship described in the**
2030 **transactional test or the functional test described in this paragraph (2).**

2031 **The classification of income by occasionally used labels, including,**
2032 **but not limited to, manufacturing income, compensation for services,**
2033 **sales income interest, dividends, rents, royalties, gains, operating**

2034 income, and nonoperating income shall not be considered when
2035 determining whether income is business or nonbusiness income. All
2036 income of the taxpayer is business income unless clearly classifiable
2037 as nonbusiness income. A taxpayer seeking to overcome a
2038 classification of income as business income must establish by a
2039 preponderance of the evidence that the income has been incorrectly
2040 classified.

2041 (A) Transactional test. Business income includes
2042 income arising from transactions and activity in the regular course of
2043 the taxpayer's trade or business.

2044 (i) If the transaction or activity is in the regular
2045 course of the taxpayer's trade or business, part of which trade or
2046 business is conducted within Mississippi, the resulting income of the
2047 transaction or activity is business income for Mississippi. Income may
2048 be business income even though the actual transaction or activity that

2049 gives rise to the income does not occur in Mississippi.

2050 (ii) For a transaction or activity to be in the

2051 regular course of the taxpayer's trade or business, the transactions or

2052 activity need not be one that frequently occurs in the trade or

2053 business, although most frequently occurring transactions or activities

2054 shall be considered to be in the regular course of a trade or business.

2055 It is sufficient to classify a transaction or activity as being in the

2056 regular course of a trade or business if it is reasonable to conclude

2057 transactions of that type are customary in the kind of trade or business

2058 being conducted or are within the scope of what the trade or business

2059 does.

2060 (B) Functional test. Business income includes

2061 income from tangible and intangible property if the acquisition,

2062 management and/or disposition of the property constitute integral

2063 parts of the taxpayer's regular trade or business operation.

2064 **(i) Under the functional test, business income**
2065 **need not be derived from transactions or activities that are in the**
2066 **regular course of the taxpayer's own particular trade or business. It**
2067 **shall be sufficient if the property from which the income is derived is**
2068 **or was an integral, functional, necessary or operative component of**
2069 **the taxpayer's trade or business operations, part of which trade or**
2070 **business is or was conducted within this state.**

2071 **(ii) Income that is derived from isolated sales,**
2072 **leases, assignments, licenses and other infrequently occurring**
2073 **dispositions, transfers or transactions involving property, including**
2074 **transactions made in liquidation or the winding up of business is**
2075 **business income if the property is or was used in the taxpayer's trade**
2076 **or business operation. Income from the licensing of intangible assets,**
2077 **such as patents, copyrights, trademarks, service marks, goodwill,**
2078 **know-how, trade secrets and similar assets, that were developed or**

2079 acquired for use by the taxpayer in his trade or business operations,
2080 constitute business income whether the licensing itself constituted the
2081 operation of a trade or business and whether the taxpayer remains in
2082 the same trade or business from or for which the intangible asset was
2083 developed or acquired.

2084 (iii) Under the functional test, income from
2085 intangible property is business income when the intangible property
2086 serves an operating function, as opposed to solely an investment
2087 function. The relevant inquiry shall focus on whether the property is or
2088 was held in furtherance of the taxpayer's trade or business, that is, on
2089 the objective characteristics of the intangible property's use or
2090 acquisition and its relation to the taxpayer and the taxpayer's activities.
2091 The functional test is not satisfied where the holding of the property is
2092 limited solely to an investment function as in the case where the
2093 holding of the property is limited to mere financial betterment of the

2094 **taxpayer in general.**

2095 **(iv) If the property is or was held in furtherance**
2096 **of the taxpayer's trade or business beyond mere financial betterment,**
2097 **then income from the property may be business income even though**
2098 **the actual transaction or activity involving the property that gives rise**
2099 **to the income does not occur in Mississippi.**

2100 **(v) If, with respect to an item of property, a**
2101 **taxpayer takes a deduction from business income that is apportioned**
2102 **to Mississippi, or includes that item of property in the property factor,**
2103 **it is presumed that the item of property is or was integral to the**
2104 **taxpayer's trade or business operations. No presumption arises from**
2105 **the absence of any of this action.**

2106 **(vi) Application of the functional test is generally**
2107 **unaffected by the form of the property. Income arising from intangible**
2108 **property is business income when the intangible property itself or the**

2109 underlying value of the intangible property is or was an integral,
2110 functional, necessary or operative component to the taxpayer's trade
2111 or business operation. Therefore, while treatment of income derived
2112 from transactions involving intangible property as business income
2113 may be supported by a finding that the issuer of the intangible property
2114 and the taxpayer are engaged in the same trade or business,
2115 establishment of such a relationship is not the exclusive basis for
2116 concluding that the income constitutes business income. It is
2117 sufficient to support a finding of business income if the holding of the
2118 intangible property served an operational rather than an investment
2119 function.

2120 (3) "Nonbusiness income" means all income that does not
2121 meet the definition of business income.

2122 (4) "Commercial domicile" means the principal place from
2123 which the trade or business of the taxpayer is directed or managed.

2124 **(5) "State" means any state of the United States, the District**
2125 **of Columbia, the Commonwealth of Puerto Rico, any territory or**
2126 **possession of the United States, and any foreign country or political**
2127 **subdivision thereof.**

2128 **(b) Nonresident individuals, partnerships, trusts and estates.**

2129 **(1) The tax imposed by this article shall apply to the entire**
2130 **net income of a taxable nonresident derived from employment, trade,**
2131 **business, professional, personal service or other activity for financial**
2132 **gain or profit, performed or carried on within Mississippi, including the**
2133 **rental of real or personal property located within this state or for use**
2134 **herein and including the sale or exchange or other disposition of**
2135 **tangible or intangible property having a situs in Mississippi.**

2136 **(2) Income derived from trade, business or other**
2137 **commercial activity shall be taxed to the extent that it is derived from**
2138 **such activity within this state. Mississippi net income shall be**

2139 **determined * * * in the * * * manner * * * prescribed by the**
2140 **commissioner for the allocation and/or apportionment of income of**
2141 **foreign corporations having income from sources both within and**
2142 **without the state.**

2143 **(3) A taxable nonresident shall be allowed to deduct**
2144 **expenses, interest, taxes, losses, bad debts, depreciation and similar**
2145 **business expenses only to the extent that they are allowable under this**
2146 **article and are attributable to the production of income allocable to and**
2147 **taxable by the State of Mississippi. As to allowable deductions**
2148 **essentially personal in nature, such as contributions to charitable**
2149 **organizations, medical expenses, taxes, interest and the optional**
2150 **standard deduction, such taxable nonresident shall be allowed**
2151 **deductions therefor in the ratio that the net income from sources**
2152 **within Mississippi bears to the total net income from all sources of**
2153 **such taxable nonresident, computed as if such taxable nonresident**

2154 **were a resident of Mississippi.**

2155 **(c) Foreign corporations, associations, organizations and other**
2156 **entities.**

2157 **(1) Corporations and organizations required to file. All**
2158 **foreign corporations and other organizations which have obtained a**
2159 **certificate of authority from the Secretary of State to do business in**
2160 **Mississippi, or corporations or organizations which are in fact doing**
2161 **business in Mississippi, are subject to the income tax levy and are**
2162 **required to file annual income tax returns unless the corporation or**
2163 **organization is specifically exempt from tax by this article.**

2164 **(2) Allocation and apportionment of income. Except as**
2165 **provided in Sections 27-7-24, 27-7-24.1, 27-7-24.3, 27-7-24.5 and**
2166 **27-7-24.7, Mississippi Code of 1972, any corporation or organization**
2167 **having business income from business activity which is taxable both**
2168 **within and without this state shall allocate and apportion its net**

2169 **business income as prescribed by the commissioner. If the business**
2170 **income of the corporation is derived solely from property owned or**
2171 **business done in this state and the corporation is not taxable in**
2172 **another state, the entire business income shall be allocated to this**
2173 **state. * * * A corporation is taxable in another state if, * * * in that state**
2174 **the corporation is subject to a net income tax, or a franchise tax**
2175 **measured by net income, or * * * if that state has jurisdiction to subject**
2176 **the corporation to a net income tax regardless of whether * * * the state**
2177 **does or does not subject the corporation to a net income tax.**

2178 * * *

2179 **(3) Nonbusiness income. Rents and royalties from real or**
2180 **tangible personal property, capital gains, interest, dividends, or patent**
2181 **or copyright royalties, to the extent that they constitute nonbusiness**
2182 **income, shall be allocated as follows:**

2183 **(A) Net rents and royalties from real property are**

2184 **allocable to the state in which the property is located.**

2185 **(B) Net rents and royalties from tangible personal**

2186 **property are allocable to the state in which the property is used, or to**

2187 **this state in their entirety if the corporation's commercial domicile is in**

2188 **this state and the corporation is not organized under the laws of or**

2189 **taxable in the state in which the property is utilized.**

2190 **(C) Capital gains and losses from sales of real**

2191 **property are allocable to the state in which the property is located.**

2192 **(D) Capital gains and losses from sales of tangible**

2193 **personal property are allocable to the state in which the property is**

2194 **located, or to this state if the corporation's commercial domicile is in**

2195 **this state and the corporation is not taxable in the state in which the**

2196 **property had a situs.**

2197 **(E) Capital gains and losses from sales of intangible**

2198 **personal property are allocable to the state of the corporation's**

2199 **commercial domicile.**

2200 **(F) Interest and dividends are allocable to the state of**
2201 **the corporation's commercial domicile.**

2202 **(G) Patent and copyright royalties are allocable to the**
2203 **state in which the patent or copyright is utilized by the payer, or to this**
2204 **state if and to the extent that the patent or copyright is utilized by the**
2205 **payer in a state in which the corporation is not taxable and the**
2206 **corporation's commercial domicile is in this state.**

2207 **(H) Any other nonbusiness income shall be allocated**
2208 **as prescribed by the commissioner.**

2209 **(I) All expenses connected with earning nonbusiness**
2210 **income, such as interest, taxes, general and administrative expenses**
2211 **and such other expenses relating to the production of nonbusiness**
2212 **income, shall be deducted from gross nonbusiness income.**

2213 **Nonbusiness interest expense shall be computed by using the ratio of**

2214 **nonbusiness assets to total assets applied to total interest expense.**

2215 **(d) Foreign lenders.**

2216 **(1) In the case of any foreign lender, (corporation,**
2217 **association, organization, individual, partnership, trusts or estates),**
2218 **other than: (A) a foreign insurance company subject to certification by**
2219 **the Commissioner of Insurance, as provided by Section 83-21-1 et**
2220 **seq.; or (B) a foreign lender qualified under the general laws of this**
2221 **state to do business herein; or (C) a foreign lender which maintains an**
2222 **office or place of business within this state; or (D) lenders that sold**
2223 **properties in this state and financed such sale and reported on the**
2224 **installment method, interest income received or accrued on or after**
2225 **January 1, 1977, from loans secured by real estate or from lending on**
2226 **the security of real estate located within this state shall be excluded**
2227 **from Mississippi gross income and exempt from the Mississippi**
2228 **income tax levy and the reporting requirements.**

2229 **(2) In the case of any foreign lender exempted in paragraph**
2230 **(1) of this subsection, interest income received on any loan finalized or**
2231 **consummated after January 1, 1977, shall be excluded from**
2232 **Mississippi gross income and the net profits derived therefrom shall**
2233 **be exempt from the Mississippi income tax levy for the life of such**
2234 **loan.**

2235 **(e) Insurance companies. Insurance companies, other than life**
2236 **insurance companies, deriving premium income from within and**
2237 **without the state, may determine their Mississippi net income from**
2238 **underwriting by apportioning to this state a part of their total net**
2239 **underwriting income by such processes or formulas of general**
2240 **apportionment as are prescribed by the commissioner; provided that a**
2241 **company adopting this method of reporting for any year must adhere**
2242 **to said method of reporting for subsequent years, unless permission is**
2243 **granted by the commissioner to change to a different method of**

2244 reporting; and provided that all affiliated companies of the same group
2245 shall use the same method of reporting.

2246 (f) Bond requirements. Any individual or corporation subject to
2247 the tax imposed by this article, engaged in the business of performing
2248 contracts which may require the payment of net income taxes, may be
2249 required by the commissioner, before entering into the performance of
2250 any contract or contracts the consideration of which is more than Ten
2251 Thousand Dollars (\$10,000.00), to execute and file a good and valid
2252 bond with a surety company authorized to do business in this state, or
2253 with sufficient sureties to be approved by the commissioner,
2254 conditioned that all taxes which may accrue to the State of Mississippi
2255 will be paid when due. Provided, however, that such bond shall not
2256 exceed five percent (5%) of the total contracts entered into during the
2257 taxable period, and, provided further, that any taxpayer, in lieu of
2258 furnishing such bond, may pay the maximum sum required herein as

2259 **advance payment of taxes due on the net income realized from any**
2260 **contract or contracts performed or completed in this state.**

2261 **SECTION 5. Section 27-7-24.3, Mississippi Code of 1972, is**
2262 **amended as follows:**

2263 **27-7-24.3. (1) The receipts factor is a fraction, the numerator of**
2264 **which is the receipts of the taxpayer in this state during the taxable**
2265 **year and the denominator of which is the receipts of the taxpayer**
2266 **within and without this state during the taxable year. The method of**
2267 **calculating receipts for purposes of the denominator is the same as**
2268 **the method used in determining receipts for purposes of the**
2269 **numerator. The receipts factor shall include only those receipts**
2270 **described herein which constitute business income and are included**
2271 **in the computation of the apportionable income base for the taxable**
2272 **year.**

2273 **(2) The numerator of the receipts factor includes receipts from**

2274 the lease or rental of real property owned by the taxpayer if the
2275 property is located within this state on receipts from the sublease of
2276 real property if the property is located within this state.

2277 (3) (a) Except as described in paragraph (b) of this subsection,
2278 the numerator of the receipts factor includes receipts from the lease or
2279 rental of tangible personal property owned by the taxpayer if the
2280 property is located within this state when it is first placed in service by
2281 the lessee.

2282 (b) Receipts from the lease or rental of transportation
2283 property owned by the taxpayer are included in the numerator of the
2284 receipts factor to the extent that the property is used in this state. The
2285 extent an aircraft will be deemed to be used in this state and the
2286 amount of the receipts that is to be included in the numerator of this
2287 state's receipts factor is determined by multiplying all the receipts from
2288 the lease or rental of the aircraft by a fraction, the numerator of which

2289 **is the number of landings of the aircraft in this state and the**
2290 **denominator of which is the total number of landings of the aircraft. If**
2291 **the extent of the use of any transportation property within the state**
2292 **cannot be determined, then the property will be deemed to be used**
2293 **wholly in the state in which the property has its principal base of**
2294 **operations. A motor vehicle will be deemed to be used wholly in the**
2295 **state in which it is registered.**

2296 **(4) (a) The numerator of the receipts factor includes interest and**
2297 **fees or penalties in the nature of interest from loans secured by real**
2298 **property if the property is located within this state. If the property is**
2299 **located both within this state and one or more other states, the**
2300 **receipts described in this subsection are included in the numerator of**
2301 **the receipts factor if more than fifty percent (50%) of the fair market**
2302 **value of the real property is located within this state. If more than fifty**
2303 **percent (50%) of the fair market value of the real property is not located**

2304 **within any one state, then the receipts described in this subsection**
2305 **shall be included in the numerator of the receipts factor if the borrower**
2306 **is located in this state.**

2307 **(b) The determination of whether the real property securing**
2308 **a loan is located within this state shall be made as of the time the**
2309 **original agreement was made and any and all subsequent**
2310 **substitutions of collateral shall be disregarded.**

2311 **(5) The numerator of the receipts factor includes interest and**
2312 **fees or penalties in the nature of interest from loans not secured by**
2313 **real property if the borrower is located in this state.**

2314 **(6) The numerator of the receipts factor includes net gains from**
2315 **the sale of loans. Net gains from the sale of loans includes income**
2316 **recorded under coupon stripping rules of Section 1286 of the Internal**
2317 **Revenue Code, as in effect January 1, 1996.**

2318 **(a) The amount of net gains (but not less than zero) from**

2319 **the sale of loans secured by real property included in the numerator is**
2320 **determined by multiplying such net gains by a fraction the numerator**
2321 **of which is the amount included in the numerator of the receipts factor**
2322 **pursuant to subsection (4) of this section and the denominator of**
2323 **which is the total amount of interest and fees or penalties in the nature**
2324 **of interest from loans secured by real property.**

2325 **(b) The amount of net gains (but not less than zero) from**
2326 **the sale of loans not secured by real property included in the**
2327 **numerator is determined by multiplying such net gains by a fraction**
2328 **the numerator of which is the amount included in the numerator of the**
2329 **receipts factor pursuant to subsection (5) of this section and the**
2330 **denominator of which is the total amount of interest and fees or**
2331 **penalties in the nature of interest from loans not secured by real**
2332 **property.**

2333 **(7) The numerator of the receipts factor includes interest and**

2334 **fees or penalties in the nature of interest from credit card receivables**
2335 **and receipts from fees charged to card holders, such as annual fees, if**
2336 **the billing address of the card holder is in this state.**

2337 **(8) The numerator of the receipts factor includes net gains (but**
2338 **not less than zero) from the sale of credit card receivables multiplied**
2339 **by a fraction, the numerator of which is the amount included in the**
2340 **numerator of the receipts factor pursuant to subsection (7) of this**
2341 **section and the denominator of which is the taxpayer's total amount of**
2342 **interest and fees or penalties in the nature of interest from credit card**
2343 **receivables and fees charged to card holders.**

2344 **(9) The numerator of the receipts factor includes all credit card**
2345 **issuer's reimbursement fees multiplied by a fraction, the numerator of**
2346 **which is the amount included in the numerator of the receipts factor**
2347 **pursuant to subsection (7) of this section and the denominator of**
2348 **which is the taxpayer's total amount of interest and fees or penalties in**

2349 **the nature of interest from credit card receivables and fees charged to**
2350 **card holders.**

2351 **(10) The numerator of the receipts factor includes receipts from**
2352 **merchant discount if the commercial domicile of the merchant is in**
2353 **this state. Such receipts shall be computed net of any cardholder**
2354 **charge backs, but shall not be reduced by any interchange transaction**
2355 **fees or by any issuer's reimbursement fees paid to another for charges**
2356 **made by its card holders.**

2357 **(11) (a) (i) The numerator of the receipts factor includes loan**
2358 **servicing fees derived from loans secured by real property multiplied**
2359 **by a fraction the numerator of which is the amount included in the**
2360 **numerator of the receipts factor pursuant to subsection (4) of this**
2361 **section and the denominator of which is the total amount of interest**
2362 **and fees or penalties in the nature of interest from loans secured by**
2363 **real property.**

2364 (ii) The numerator of the receipts factor includes loan
2365 servicing fees derived from loans not secured by real property
2366 multiplied by a fraction the numerator of which is the amount included
2367 in the numerator of the receipts factor pursuant to subsection (5) of
2368 this section and the denominator of which is the total amount of
2369 interest and fees or penalties in the nature of interest and fees or
2370 penalties in the nature of interest from loans not secured by real
2371 property.

2372 (b) In circumstances in which the taxpayer receives loan
2373 servicing fees for servicing either the secured or the unsecured loans
2374 of another, the numerator of the receipts factor shall include such fees
2375 if the borrower is located in this state.

2376 (12) The numerator of the receipts factor includes receipts from
2377 services not otherwise apportioned under this section if the service is
2378 performed in this state. If the service is performed both within and

2379 **without this state, the numerator of the receipts factor includes**
2380 **receipts from services not otherwise apportioned under this section, if**
2381 **a greater proportion of the income producing activity is performed in**
2382 **this state based on cost of performance.**

2383 **(13) (a) Interest, dividends, net gains (but not less than zero) and**
2384 **other income from investment assets and activities and from trading**
2385 **assets and activities shall be included in the receipts factor.**

2386 **Investment assets and activities and trading assets and activities**
2387 **include but are not limited to: investment securities; trading account**
2388 **assets; federal funds; securities purchased and sold under**
2389 **agreements to resell or repurchase; options; future contracts; forward**
2390 **contracts; notional principal contracts such as swaps; equities; and**
2391 **foreign currency transactions. With respect to the investment and**
2392 **trading assets and activities described in subparagraphs (i) and (ii) of**
2393 **this paragraph (a), the receipts factor shall include the amounts**

2394 **described in such subparagraphs.**

2395 **(i) The receipts factor shall include the amount by**
2396 **which interest from federal funds sold and securities purchased under**
2397 **resale agreements exceeds interest expenses on federal funds**
2398 **purchased and securities sold under repurchase agreements.**

2399 **(ii) The receipts factor shall include the amount by**
2400 **which interest, dividends, gains and other income from trading assets**
2401 **and activities, including but not limited to assets and activities in the**
2402 **matched book, in the arbitrage book, and foreign currency**
2403 **transactions, exceed amounts paid in lieu of interest, amounts paid in**
2404 **lieu of dividends, and losses from such assets and activities.**

2405 **(b) The numerator of the receipts factor includes interest,**
2406 **dividends, net gains (but not less than zero) and other income from**
2407 **investment assets and activities and from trading assets and activities**
2408 **described in paragraph (a) of this subsection that are attributable to**

2409 **this state.**

2410 **(i) The amount of interest, dividends, net gains (but**
2411 **not less than zero) and other income from investment assets and**
2412 **activities in the investment account to be attributed to this state and**
2413 **included in the numerator is determined by multiplying all such income**
2414 **from such assets and activities by a fraction, the numerator of which is**
2415 **average value of such assets which are properly assigned to a regular**
2416 **place of business of the taxpayer within this state and the denominator**
2417 **of which is the average value of all such assets.**

2418 **(ii) The amount of interest from federal funds sold and**
2419 **purchased and from securities purchased under resale agreements**
2420 **and securities sold under repurchase agreements attributable to this**
2421 **state and included in the numerator is determined by multiplying the**
2422 **amount described in subparagraph (i) of paragraph (a) of this**
2423 **subsection (13) from such funds and such securities by a fraction, the**

2424 numerator of which is the average value of federal funds sold and
2425 securities purchased under agreements to resell which are properly
2426 assigned to a regular place of business of the taxpayer within this
2427 state and the denominator of which is the average value of all such
2428 funds and such securities.

2429 (iii) The amount of interest, dividends, gains and other
2430 income from trading assets and activities, including but not limited to
2431 assets and activities in the matched book, in the arbitrage book and
2432 foreign currency transactions, (but excluding amounts described in
2433 subparagraph (i) or (ii) of this paragraph), attributable to this state and
2434 included in the numerator is determined by multiplying the amount
2435 described in subparagraph (ii) of paragraph (a) of this subsection (13)
2436 by a fraction, the numerator of which is the average value of such
2437 trading assets which are properly assigned to a regular place of
2438 business of the taxpayer within this state and the denominator of

2439 **which is the average value of all such assets.**

2440 **(iv) For purposes of this paragraph, average value**
2441 **shall be determined using the rules for determining the average value**
2442 **of tangible personal property set forth in subsections (3) and (4) of**
2443 **Section 27-7-24.5.**

2444 **(c) In lieu of using the method set forth in paragraph (b) of**
2445 **this subsection (13), the taxpayer may elect, or the commissioner may**
2446 **require in order to fairly represent the business activity of the taxpayer**
2447 **in this state, the use of the method set forth in this paragraph (c).**

2448 **(i) The amount of interest, dividends, net gains (but**
2449 **not less than zero) and other income from investment assets and**
2450 **activities in the investment account to be attributed to this state and**
2451 **included in the numerator is determined by multiplying all such income**
2452 **from such assets and activities by a fraction, the numerator of which is**
2453 **the gross income from such assets and activities which are properly**

2454 **assigned to a regular place of business of the taxpayer within the state**
2455 **and the denominator of which is the gross income from all such assets**
2456 **and activities.**

2457 **(ii) The amount of interest from federal funds sold and**
2458 **purchased and from securities purchased under resale agreements**
2459 **and securities sold under repurchase agreements attributable to this**
2460 **state and included in the numerator is determined by multiplying the**
2461 **amount described in subparagraph (i) of paragraph (a) of this**
2462 **subsection (13) from such funds and such securities by a fraction, the**
2463 **numerator of which is the gross income from such funds and such**
2464 **securities which are property assigned to a regular place of business**
2465 **and the taxpayer within this state and the denominator of which is the**
2466 **gross income from all such funds and such securities.**

2467 **(iii) The amount of interest, dividends, gains and other**
2468 **income from trading assets and activities, including but not limited to**

2469 **assets and activities in the matched book, in the arbitrage book and**
2470 **foreign currency transactions, but not excluding amounts described in**
2471 **subparagraphs (i) or (ii) of this paragraph (c), attributable to this state**
2472 **and included in the numerator is determined by multiplying the amount**
2473 **described in subparagraph (ii) of paragraph (a) of this subsection (13)**
2474 **by a fraction, the numerator of which is the gross income from such**
2475 **trading assets and activities which are properly assigned to a regular**
2476 **place of business of the taxpayer within this state and the denominator**
2477 **of which is the gross income from all such assets and activities.**

2478 **(d) If the taxpayer elects or is required by the commissioner**
2479 **to use the method set forth in paragraph (c) of this subsection (13), it**
2480 **shall use this method on all subsequent returns unless the taxpayer**
2481 **receives prior permission from the commissioner to use, or the**
2482 **commissioner requires a different method.**

2483 **(e) The taxpayer shall have the burden of proving that an**

2484 **investment asset or activity or trading asset or activity was properly**
2485 **assigned to a regular place of business outside of this state by**
2486 **demonstrating that the day-to-day decisions regarding the assets or**
2487 **activity occurred at a regular place of business outside this state.**

2488 **Where the day-to-day decisions regarding an investment asset or**
2489 **activity or trading asset or activity occur at more than one (1) regular**
2490 **place of business and one (1) such regular place of business is in this**
2491 **state and one (1) such regular place of business outside this state,**
2492 **such asset or activity shall be considered to be located at the regular**
2493 **place of business of the taxpayer where the investment or trading**
2494 **policies or guidelines with respect to the asset or activity are**
2495 **established. Unless the taxpayer demonstrates to the contrary, such**
2496 **policies and guidelines shall be presumed to be established at the**
2497 **commercial domicile of the taxpayer.**

2498 **(14) The numerator of the receipts factor includes all other**

2499 receipts pursuant to the rules adopted by the commission.

2500 (15) All receipts which would be assigned under this section to a
2501 state in which the taxpayer is not taxable shall be included in the
2502 numerator of the receipts factor, if the taxpayer's commercial domicile
2503 is in this state.

2504 SECTION 6. Section 27-8-3, Mississippi Code of 1972, is
2505 amended as follows:

2506 27-8-3. (1) For purposes of this chapter, the following terms
2507 shall have meanings ascribed below:

2508 (a) "C corporation" means a corporation which is not an S
2509 corporation.

2510 (b) "Code" means the Internal Revenue Code of 1986, as
2511 amended and as applicable to the taxable period; references to
2512 sections of the Code shall be deemed to refer to corresponding
2513 provisions of prior and subsequent federal tax laws.

2514 **(c) "Income attributable to the state" means items of**
2515 **income, loss, deduction or credit of the S corporation apportioned to**
2516 **this state under Section 27-7-23(c)(2) or allocated to this state under**
2517 **Section 27-7-23(c)(3).**

2518 **(d) "Income not attributable to the state" means all items of**
2519 **income, loss, deduction or credit of the S corporation other than**
2520 **income attributable to the state.**

2521 **(e) "Post-termination transition period" means that period**
2522 **defined in Section 1377(b)(1) of the Code.**

2523 **(f) "Pro rata share" means the portion of any item**
2524 **attributable to an S corporation shareholder for a taxable period**
2525 **determined in the manner provided in, and subject to any election**
2526 **made under, Section 1377(a) or 1362(e), as the case may be, of the**
2527 **Code.**

2528 **(g) "S corporation" means a corporation for which a valid**

2529 **election under Section 1362(a) of the Code is in effect.**

2530 **(h) "Taxable period" means any taxable year or portion of a**
2531 **taxable year during which a corporation is an S corporation.**

2532 **(2) Except as otherwise expressly provided or clearly appearing**
2533 **from the context, any term used in this chapter shall have the same**
2534 **meaning as when used in a comparable context in the Code, or in any**
2535 **statute relating to federal income taxes, in effect for the taxable period.**

2536 **Due consideration shall be given in the interpretation of this chapter**
2537 **to applicable sections of the Code in effect from time to time and to**
2538 **federal rulings and regulations interpreting such sections, provided**
2539 **such Code, rulings and regulations do not conflict with the provisions**
2540 **of this chapter.**

2541 **SECTION 7. Section 27-13-13, Mississippi Code of 1972, is**
2542 **amended as follows:**

2543 **27-13-13. (1) In the case of organizations doing business both**

2544 **within and without Mississippi, the value of the capital employed in**
2545 **this state shall be determined by first computing the ratio between (1)**
2546 **the real and tangible personal property owned in Mississippi and gross**
2547 **receipts from business carried on in Mississippi, and (2) the total real**
2548 **and tangible personal property owned and gross receipts wherever**
2549 **located and from wherever received. Said ratio then shall be applied to**
2550 **the total capital stock, surplus, undivided profits and true reserves and**
2551 **the result of that application shall be the capital employed in this state.**
2552 **Provided, however, that the amount of the determined capital in**
2553 **Mississippi shall in no case be less than the assessed value of the**
2554 **Mississippi property of the organization for the year preceding the year**
2555 **in which the return is due.**

2556 **(2) (a) For the purpose of this section, for tax returns for tax**
2557 **years ending before January 1, 1999, an organization which uses a**
2558 **formula method of apportionment in making income tax returns to this**

2559 **state shall determine its gross receipts from business carried on in**
2560 **Mississippi by applying to total unitary receipts the ratio achieved, or**
2561 **which would be achieved, by such formula and adding to the result of**
2562 **such application any nonunitary Mississippi receipts.**

2563 **(b) For the purpose of this section, for tax returns for tax**
2564 **years ending on or after January 1, 1999, the gross receipts of an**
2565 **organization that is required to use a formula method of apportionment**
2566 **in making income tax returns to this state shall be the same (both as to**
2567 **gross receipts from business carried on in Mississippi and gross**
2568 **receipts wherever located) as the gross receipts (or sales) used for the**
2569 **receipts or sales factor in the applicable income tax formula. However,**
2570 **gross receipts from business carried on in Mississippi, for the**
2571 **purposes of this section, shall also include any receipts from the**
2572 **taxpayer's business operations which are not apportioned but rather**
2573 **are directly allocated or assigned to this state. If the taxpayer is**

2574 required to use a formula method of apportionment in making income
2575 tax returns which does not have a receipts or sales factor, then the
2576 receipts factor for the franchise tax formula shall be determined by
2577 regulation of the commission.

2578 (c) For purposes of this section, for tax returns for tax
2579 years ending on or after December 31, 2001, the ratio described in
2580 subsection (1) of this section shall include all gross receipts as
2581 specified in paragraph (b) of this subsection and where a taxpayer
2582 owns a direct or indirect interest in a flow-through entity, the taxpayer
2583 shall include in the ratio its portion of the flow-through entity's (i) real
2584 and tangible personal property owned in Mississippi and gross
2585 receipts from business carried on in Mississippi, and (ii) total real and
2586 tangible property owned and gross receipts wherever located and from
2587 wherever received. The taxpayer shall include its portion of the
2588 flow-through entity's assessed value of Mississippi property when

2589 **determining its assessed value of Mississippi property. A**
2590 **flow-through entity's real property, tangible personal property, gross**
2591 **receipts and assessed value of property shall include its portion of**
2592 **these same items of any flow-through entity in which it owns a direct**
2593 **or indirect interest. For purposes of this section, flow-through entity is**
2594 **every form of organization other than a corporation, association or**
2595 **joint stock company or other organization which would qualify for**
2596 **exemption under Section 27-13-63 if the organization were a**
2597 **corporation, association or joint stock company.**

2598 **SECTION 8. This act shall apply to taxable years beginning on or**
2599 **after January 1, 2001.**

2600 **SECTION 9. No rules or regulations shall be promulgated or**
2601 **enforced pursuant to this act unless such rules or regulations apply**
2602 **equally to each taxpayer affected by this act.**

2603 **SECTION 10. This act shall take effect and be in force from and**

2604 after January 1, 2001.

Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

1 AN ACT TO AMEND SECTION 27-7-9, MISSISSIPPI CODE OF
2 1972, TO DELETE THE PROVISION PROVIDING THAT COMPLIANCE
3 WITH FEDERAL REGULATIONS PROMULGATED UNDER SECTION 482
4 OF THE UNITED STATES INTERNAL REVENUE CODE SHALL
5 CONSTITUTE "ARMS-LENGTH" FOR THE PURPOSE OF DETERMINING
6 WHETHER A TRANSACTION BY A CORPORATION OR OTHER LEGAL
7 ENTITY IS AT "ARMS-LENGTH" FOR STATE INCOME TAX PURPOSES
8 AND TO PROVIDE THAT THE COMMISSIONER SHALL CONSIDER
9 CERTAIN CRITERIA WHEN DETERMINING WHETHER A TRANSACTION
10 IS ARMS-LENGTH; TO AMEND SECTION 27-7-15, MISSISSIPPI CODE
11 OF 1972, TO PROVIDE FOR THE RECOGNITION OF GAIN OR PROFIT
12 FROM THE CASUAL SALE OF PROPERTY BY INSTALLMENT SALE IN
13 THE YEAR OF THE SALE; TO ALLOW DEFERRAL OF THE TAX
14 RESULTING FROM THE GAIN IF THE GAIN IS DEFERRED FOR
15 FEDERAL INCOME TAX PURPOSES TO THE EXTENT PROVIDED
16 UNDER REGULATIONS PRESCRIBED BY THE CHAIRMAN OF THE
17 STATE TAX COMMISSION; TO EXCLUDE FROM THE DEFINITION OF
18 THE TERM "GROSS INCOME" CERTAIN INCOME RESULTING FROM
19 TRANSACTIONS WITH A RELATED MEMBER; TO AMEND SECTION
20 27-7-17, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT, IN
21 COMPUTING NET INCOME, A TAXPAYER MUST ADD BACK CERTAIN
22 OTHERWISE DEDUCTIBLE EXPENSES AND COSTS PAID TO RELATED
23 MEMBERS; TO AMEND SECTION 27-7-23, MISSISSIPPI CODE OF 1972,

24 **TO REVISE THE DEFINITION OF THE TERM "BUSINESS INCOME"; TO**
25 **REVISE THE MANNER IN WHICH THE INCOME OF MULTISTATE**
26 **ENTITIES IS ALLOCATED AND APPORTIONED; TO PROVIDE FOR THE**
27 **ALLOCATION OF CERTAIN NONBUSINESS INCOME; TO AMEND**
28 **SECTIONS 27-7-24.3 AND 27-8-3, MISSISSIPPI CODE OF 1972, IN**
29 **CONFORMITY THERETO; TO AMEND SECTION 27-13-13, MISSISSIPPI**
30 **CODE OF 1972, TO PROVIDE FOR THE MANNER IN WHICH THE**
31 **ASSETS OF CERTAIN FLOW-THROUGH ENTITIES SHALL BE**
32 **INCLUDED IN THE RATIO USED TO DETERMINE THE VALUE OF THE**
33 **CAPITAL EMPLOYED IN THIS STATE FOR FRANCHISE TAX**
34 **PURPOSES; AND FOR RELATED PURPOSES.**