

By: Representative Howell

To: Ways and Means

HOUSE BILL NO. 382

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

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

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

13 [ \* \* \* Through June 30, 2003, this section shall read as  
 14 follows:]

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



31 agreement authorized under Section 25-17-5 shall be excluded from  
32 the term "gross income" within the meaning of this article.

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

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

40 (b) Casual sales of property.

41 (i) Prior to January 1, 2001, federal rules,  
42 regulations and revenue procedures shall be followed with respect  
43 to installment sales except they shall be applied and administered  
44 as if House Resolution No. 3594, the Installment Tax Correction  
45 Act of 2000 of the 106th Congress had not been enacted. This  
46 provision will generally affect taxpayers, reporting on the  
47 accrual method of accounting, entering into installment note  
48 agreements on or after December 17, 1999. Any gain or profit  
49 resulting from the casual sale of property will be recognized in  
50 the year of sale.

51 (ii) From and after January 1, 2001, federal  
52 rules, regulations and revenue procedures shall be followed with  
53 respect to installment sales except as provided in this  
54 subparagraph (ii). Gain or profit from the casual sale of  
55 property shall be recognized in the year of sale. When a taxpayer  
56 recognizes gain on the casual sale of property in which the gain  
57 is deferred for federal income tax purposes, a taxpayer may elect  
58 to defer the payment of tax resulting from the gain as allowed and  
59 to the extent provided under regulations prescribed by the  
60 commissioner. If the payment of the tax is made on a deferred  
61 basis, the tax shall be computed based on the applicable rate for  
62 the income reported in the year the payment is made. Except as  
63 otherwise provided in subparagraph (iii) of this paragraph (b),



64 deferring the payment of the tax shall not affect the liability  
65 for the tax. If at any time the installment note is sold,  
66 contributed, transferred or disposed of in any manner and for any  
67 purpose by the original note holder, or the original note holder  
68 is merged, liquidated, dissolved or withdrawn from this state,  
69 then all deferred tax payments under this section shall  
70 immediately become due and payable.

71 (iii) If the selling price of the property is  
72 reduced by any alteration in the terms of an installment note,  
73 including default by the purchaser, the gain to be recognized is  
74 recomputed based on the adjusted selling price in the same manner  
75 as for federal income tax purposes. The tax on this amount, less  
76 the previously paid tax on the recognized gain, is payable over  
77 the period of the remaining installments. If the tax on the  
78 previously recognized gain has been paid in full to this state,  
79 the return on which the payment was made may be amended for this  
80 purpose only. The statute of limitations in Section 27-7-49 shall  
81 not bar an amended return for this purpose.

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

85 (d) Affiliated companies or persons. As regards sales,  
86 exchanges or payments for services from one to another of  
87 affiliated companies or persons or under other circumstances where  
88 the relation between the buyer and seller is such that gross  
89 proceeds from the sale or the value of the exchange or the payment  
90 for services are not indicative of the true value of the subject  
91 matter of the sale, exchange or payment for services, the  
92 commissioner shall prescribe uniform and equitable rules for  
93 determining the true value of the gross income, gross sales,  
94 exchanges or payment for services, or require consolidated returns  
95 of affiliates.



96 (e) Alimony and separate maintenance payments. The  
97 federal rules, regulations and revenue procedures in determining  
98 the deductibility and taxability of alimony payments shall be  
99 followed in this state.

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

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

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

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

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

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

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

127 (e) The amounts received through accident or health  
128 insurance as compensation for personal injuries or sickness, plus



129 the amount of any damages received for such injuries or such  
130 sickness or injuries, or through the War Risk Insurance Act, or  
131 any law for the benefit or relief of injured or disabled members  
132 of the military or naval forces of the United States.

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

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

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

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

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

160 (k) Amounts received as retirement allowances,  
161 pensions, annuities or optional retirement allowances paid under



162 the federal Social Security Act, the Railroad Retirement Act, the  
163 Federal Civil Service Retirement Act, or any other retirement  
164 system of the United States government, retirement allowances paid  
165 under the Mississippi Public Employees' Retirement System,  
166 Mississippi Highway Safety Patrol Retirement System or any other  
167 retirement system of the State of Mississippi or any political  
168 subdivision thereof. The exemption allowed under this paragraph  
169 (k) shall be available to the spouse or other beneficiary at the  
170 death of the primary retiree.

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

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

187 (n) Compensation received for active service as a  
188 member below the grade of commissioned officer and so much of the  
189 compensation as does not exceed the aggregate sum of Five Hundred  
190 Dollars (\$500.00) per month received for active service as a  
191 commissioned officer in the Armed Forces of the United States for  
192 any month during any part of which such members of the Armed  
193 Forces (i) served in a combat zone as designated by Executive  
194 Order of the President of the United States; or (ii) was



195 hospitalized as a result of wounds, disease or injury incurred  
196 while serving in such combat zone.

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

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

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

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

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

224 (t) Dividends received by a holding corporation, as  
225 defined in Section 27-13-1, from a subsidiary corporation, as  
226 defined in Section 27-13-1.



227 (u) Interest, dividends, gains or income of any kind on  
228 any account in the Mississippi Affordable College Savings Trust  
229 Fund, as established in Sections 37-155-101 through 37-155-125, to  
230 the extent that such amounts remain on deposit in the MACS Trust  
231 Fund or are withdrawn pursuant to a qualified withdrawal, as  
232 defined in Section 37-155-105.

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

236 (w) Income resulting from transactions with a related  
237 member where the related member subject to tax under this chapter  
238 was required to, and did in fact, add back the expense of such  
239 transactions as required by Section 27-7-17(2). Under no  
240 circumstances may the exclusion from income exceed the deduction  
241 add-back of the related member, nor shall the exclusion apply to  
242 any income otherwise excluded under this chapter.

243 (x) Amounts that are subject to the tax levied pursuant  
244 to Section 27-7-901, and are paid to patrons by gaming  
245 establishments licensed under the Mississippi Gaming Control Act.

246 (y) Amounts paid by an individual as premiums for  
247 health insurance covering the individual and any dependents of the  
248 individual that is offered by or through the individual's  
249 employer, if those amounts are not already excluded from gross  
250 income because they are covered under a cafeteria plan as defined  
251 in Section 125 of the Internal Revenue Code and regulations  
252 adopted under that section.

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

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





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

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

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

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

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



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

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

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

305 (6) A shareholder of an S corporation, as defined in Section  
306 27-8-3(1)(g), shall take into account the income, loss, deduction  
307 or credit of the S corporation only to the extent provided in  
308 Section 27-8-7(2).

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

311 27-7-15. (1) For the purposes of this article, except as  
312 otherwise provided, the term "gross income" means and includes the  
313 income of a taxpayer derived from salaries, wages, fees or  
314 compensation for service, of whatever kind and in whatever form  
315 paid, including income from governmental agencies and subdivisions  
316 thereof; or from professions, vocations, trades, businesses,  
317 commerce or sales, or renting or dealing in property, or  
318 reacquired property; also from annuities, interest, rents,  
319 dividends, securities, insurance premiums, reinsurance premiums,  
320 considerations for supplemental insurance contracts, or the  
321 transaction of any business carried on for gain or profit, or  
322 gains, or profits, and income derived from any source whatever and  
323 in whatever form paid. The amount of all such items of income  
324 shall be included in the gross income for the taxable year in



325 which received by the taxpayer. The amount by which an eligible  
326 employee's salary is reduced pursuant to a salary reduction  
327 agreement authorized under Section 25-17-5 shall be excluded from  
328 the term "gross income" within the meaning of this article.

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

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

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

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

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

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

350 (d) Affiliated companies or persons. As regards sales,  
351 exchanges or payments for services from one to another of  
352 affiliated companies or persons or under other circumstances where  
353 the relation between the buyer and seller is such that gross  
354 proceeds from the sale or the value of the exchange or the payment  
355 for services are not indicative of the true value of the subject  
356 matter of the sale, exchange or payment for services, the  
357 commissioner shall prescribe uniform and equitable rules for



358 determining the true value of the gross income, gross sales,  
359 exchanges or payment for services, or require consolidated returns  
360 of affiliates.

361 (e) Alimony and separate maintenance payments. The  
362 federal rules, regulations and revenue procedures in determining  
363 the deductibility and taxability of alimony payments shall be  
364 followed in this state.

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

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

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

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

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

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

387 (d) Interest upon the obligations of the United States  
388 or its possessions, or securities issued under the provisions of  
389 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the



390 War Finance Corporation, or obligations of the State of  
391 Mississippi or political subdivisions thereof.

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

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

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

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

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

421 (j) Amounts paid by the United States to a person as  
422 added compensation for hazardous duty pay as a member of the Armed



423 Forces of the United States in a combat zone designated by  
424 Executive Order of the President of the United States.

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

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

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

452 (n) Compensation received for active service as a  
453 member below the grade of commissioned officer and so much of the  
454 compensation as does not exceed the aggregate sum of Five Hundred  
455 Dollars (\$500.00) per month received for active service as a



456 commissioned officer in the Armed Forces of the United States for  
457 any month during any part of which such members of the Armed  
458 Forces (i) served in a combat zone as designated by Executive  
459 Order of the President of the United States; or (ii) was  
460 hospitalized as a result of wounds, disease or injury incurred  
461 while serving in such combat zone.

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

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

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

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

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



489 (t) Dividends received by a holding corporation, as  
490 defined in Section 27-13-1, from a subsidiary corporation, as  
491 defined in Section 27-13-1.

492 (u) Interest, dividends, gains or income of any kind on  
493 any account in the Mississippi Affordable College Savings Trust  
494 Fund, as established in Sections 37-155-101 through 37-155-125, to  
495 the extent that such amounts remain on deposit in the MACS Trust  
496 Fund or are withdrawn pursuant to a qualified withdrawal, as  
497 defined in Section 37-155-105.

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

501 (w) Amounts that are subject to the tax levied pursuant  
502 to Section 27-7-901, and are paid to patrons by gaming  
503 establishments licensed under the Mississippi Gaming Control Act.

504 (x) Amounts paid by an individual as premiums for  
505 health insurance covering the individual and any dependents of the  
506 individual that is offered by or through the individual's  
507 employer, if those amounts are not already excluded from gross  
508 income because they are covered under a cafeteria plan as defined  
509 in Section 125 of the Internal Revenue Code and regulations  
510 adopted under that section.

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

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

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





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

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

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

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

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



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

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

563 (6) A shareholder of an S corporation, as defined in Section  
564 27-8-3(1)(g), shall take into account the income, loss, deduction  
565 or credit of the S corporation only to the extent provided in  
566 Section 27-8-7(2).

567 **SECTION 2.** Section 27-7-18, Mississippi Code of 1972, is  
568 amended as follows:

569 27-7-18. (1) Alimony payments. In the case of a person  
570 described in Section 27-7-15(2)(e), there shall be allowed as a  
571 deduction from gross income amounts paid as periodic payments to  
572 the extent of such amounts as are includible in the gross income  
573 of the spouse as provided in Section 27-7-15(2)(e), payment of  
574 which is made within the person's taxable year.

575 (2) Unreimbursed moving expenses incurred after December 31,  
576 1994, are deductible as an adjustment to gross income in  
577 accordance with provisions of the United States Internal Revenue  
578 Code, and rules, regulations and revenue procedures thereunder  
579 relating to moving expenses, not in direct conflict with the  
580 provisions of the Mississippi Income Tax Law.

581 (3) Amounts paid after December 31, 1998, by a self-employed  
582 individual for insurance which constitute medical care for the  
583 taxpayer, his spouse and dependents, are deductible as an  
584 adjustment to gross income in accordance with provisions of the  
585 United States Internal Revenue Code, and rules, regulations and  
586 revenue procedures thereunder relating to such payments, not in



587 direct conflict with the provisions of the Mississippi Income Tax  
588 Law.

589 (4) Contributions or payments to a Mississippi Affordable  
590 College Savings (MACS) Program account are deductible from gross  
591 income as provided in Section 37-155-113. Payments made under a  
592 prepaid tuition contract entered into under the Mississippi  
593 Prepaid Affordable College Tuition Program are deductible as  
594 provided in Section 37-155-17.

595 (5) Health insurance premiums. Amounts paid by an  
596 individual as premiums for health insurance covering the  
597 individual and any dependents of the individual that is not  
598 offered by or through the individual's employer are deductible as  
599 an adjustment to gross income.

600 **SECTION 3.** Nothing in this act shall affect or defeat any  
601 claim, assessment, appeal, suit, right or cause of action for  
602 taxes due or accrued under the income tax laws before the date on  
603 which this act becomes effective, whether such claims,  
604 assessments, appeals, suits or actions have been begun before the  
605 date on which this act becomes effective or are begun thereafter;  
606 and the provisions of the income tax laws are expressly continued  
607 in full force, effect and operation for the purpose of the  
608 assessment, collection and enrollment of liens for any taxes due  
609 or accrued and the execution of any warrant under such laws before  
610 the date on which this act becomes effective, and for the  
611 imposition of any penalties, forfeitures or claims for failure to  
612 comply with such laws.

613 **SECTION 4.** This act shall take effect and be in force from  
614 and after January 1, 2002.

