

By: Representative Rotenberry

To: Ways and Means

HOUSE BILL NO. 687

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT AMOUNTS RECEIVED BY A MISSIONARY LIVING ABROAD WHICH
3 MAY BE EXCLUDED FROM INCOME FOR FEDERAL INCOME TAX PURPOSES SHALL
4 BE EXCLUDED FROM GROSS INCOME FOR STATE INCOME TAX PURPOSES; AND
5 FOR RELATED PURPOSES.

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

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

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

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



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

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

35 (b) Casual sales of property.

36 (i) Prior to January 1, 2001, federal rules,
37 regulations and revenue procedures shall be followed with respect
38 to installment sales except they shall be applied and administered
39 as if House Resolution 3594, the Installment Tax Correction Act of
40 2000 of the 106th Congress had not been enacted. This provision
41 will generally affect taxpayers, reporting on the accrual method
42 of accounting, entering into installment note agreements on or
43 after December 17, 1999. Any gain or profit resulting from the
44 casual sale of property will be recognized in the year of sale.

45 (ii) From and after January 1, 2001, federal
46 rules, regulations and revenue procedures shall be followed with
47 respect to installment sales except as provided in this
48 subparagraph (ii). Gain or profit from the casual sale of
49 property shall be recognized in the year of sale. When a taxpayer
50 recognizes gain on the casual sale of property in which the gain
51 is deferred for federal income tax purposes, a taxpayer may elect
52 to defer the payment of tax resulting from the gain as allowed and
53 to the extent provided under regulations prescribed by the
54 commissioner. If the payment of the tax is made on a deferred
55 basis, the tax shall be computed based on the applicable rate for
56 the income reported in the year the payment is made. Except as
57 otherwise provided in subparagraph (iii) of this paragraph (b),
58 deferring the payment of the tax shall not affect the liability
59 for the tax. If at any time the installment note is sold,
60 contributed, transferred or disposed of in any manner and for any



61 purpose by the original note holder, or the original note holder
62 is merged, liquidated, dissolved or withdrawn from this state,
63 then all deferred tax payments under this section shall
64 immediately become due and payable.

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

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

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

90 (e) Alimony and separate maintenance payments. The
91 federal rules, regulations and revenue procedures in determining
92 the deductibility and taxability of alimony payments shall be
93 followed in this state.



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

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

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

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

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

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

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

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



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

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

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

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

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

154 (k) Amounts received as retirement allowances,
155 pensions, annuities or optional retirement allowances paid under
156 the federal Social Security Act, the Railroad Retirement Act, the
157 Federal Civil Service Retirement Act, or any other retirement
158 system of the United States government, retirement allowances paid
159 under the Mississippi Public Employees' Retirement System,



160 Mississippi Highway Safety Patrol Retirement System or any other
161 retirement system of the State of Mississippi or any political
162 subdivision thereof. The exemption allowed under this paragraph
163 (k) shall be available to the spouse or other beneficiary at the
164 death of the primary retiree.

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

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

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

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



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

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

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

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

218 (t) Dividends received by a holding corporation, as
219 defined in Section 27-13-1, from a subsidiary corporation, as
220 defined in Section 27-13-1.

221 (u) Interest, dividends, gains or income of any kind on
222 any account in the Mississippi Affordable College Savings Trust
223 Fund, as established in Sections 37-155-101 through 37-155-125, to
224 the extent that such amounts remain on deposit in the MACS Trust



225 Fund or are withdrawn pursuant to a qualified withdrawal, as
226 defined in Section 37-155-105.

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

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

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

240 (y) Amounts received by a missionary living abroad
241 which may be excluded from income for federal income tax purposes.

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

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

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

253 (c) Period of conflict. For the purpose of this
254 subsection, the Vietnam Conflict began February 28, 1961, and ends
255 on the date designated by the President by Executive Order as the
256 date of the termination of combatant activities in Vietnam. For
257 the purpose of this subsection, an individual is in a missing



258 status as a result of the Vietnam Conflict if immediately before
259 such status began he was performing service in Vietnam or was
260 performing service in Southeast Asia in direct support of military
261 operations in Vietnam. "Southeast Asia" as used in this paragraph
262 is defined to include Cambodia, Laos, Thailand and waters adjacent
263 thereto.

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

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

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

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

285 (h) If refund or credit of any overpayment of tax for
286 any taxable year resulting from the application of subsection (5)
287 of this section is prevented by the operation of any law or rule
288 of law, such refund or credit of such overpayment of tax may,
289 nevertheless, be made or allowed if claim therefor is filed with



290 the State Tax Commission within three (3) years after the date of
291 the enactment of this subsection.

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

294 (6) A shareholder of an S corporation, as defined in Section
295 27-8-3(1)(g), shall take into account the income, loss, deduction
296 or credit of the S corporation only to the extent provided in
297 Section 27-8-7(2).

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

300 27-7-15. (1) For the purposes of this article, except as
301 otherwise provided, the term "gross income" means and includes the
302 income of a taxpayer derived from salaries, wages, fees or
303 compensation for service, of whatever kind and in whatever form
304 paid, including income from governmental agencies and subdivisions
305 thereof; or from professions, vocations, trades, businesses,
306 commerce or sales, or renting or dealing in property, or
307 reacquired property; also from annuities, interest, rents,
308 dividends, securities, insurance premiums, reinsurance premiums,
309 considerations for supplemental insurance contracts, or the
310 transaction of any business carried on for gain or profit, or
311 gains, or profits, and income derived from any source whatever and
312 in whatever form paid. The amount of all such items of income
313 shall be included in the gross income for the taxable year in
314 which received by the taxpayer. The amount by which an eligible
315 employee's salary is reduced pursuant to a salary reduction
316 agreement authorized under Section 25-17-5 shall be excluded from
317 the term "gross income" within the meaning of this article.

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



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

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

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

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

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

339 (d) Affiliated companies or persons. As regards sales,
340 exchanges or payments for services from one to another of
341 affiliated companies or persons or under other circumstances where
342 the relation between the buyer and seller is such that gross
343 proceeds from the sale or the value of the exchange or the payment
344 for services are not indicative of the true value of the subject
345 matter of the sale, exchange or payment for services, the
346 commissioner shall prescribe uniform and equitable rules for
347 determining the true value of the gross income, gross sales,
348 exchanges or payment for services, or require consolidated returns
349 of affiliates.

350 (e) Alimony and separate maintenance payments. The
351 federal rules, regulations and revenue procedures in determining
352 the deductibility and taxability of alimony payments shall be
353 followed in this state.



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

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

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

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

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

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

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

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



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

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

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

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

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

414 (k) Amounts received as retirement allowances,
415 pensions, annuities or optional retirement allowances paid under
416 the federal Social Security Act, the Railroad Retirement Act, the
417 Federal Civil Service Retirement Act, or any other retirement
418 system of the United States government, retirement allowances paid
419 under the Mississippi Public Employees' Retirement System,



420 Mississippi Highway Safety Patrol Retirement System or any other
421 retirement system of the State of Mississippi or any political
422 subdivision thereof. The exemption allowed under this paragraph
423 (k) shall be available to the spouse or other beneficiary at the
424 death of the primary retiree.

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

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

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

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



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

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

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

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

478 (t) Dividends received by a holding corporation, as
479 defined in Section 27-13-1, from a subsidiary corporation, as
480 defined in Section 27-13-1.

481 (u) Interest, dividends, gains or income of any kind on
482 any account in the Mississippi Affordable College Savings Trust
483 Fund, as established in Sections 37-155-101 through 37-155-125, to
484 the extent that such amounts remain on deposit in the MACS Trust



485 Fund or are withdrawn pursuant to a qualified withdrawal, as
486 defined in Section 37-155-105.

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

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

493 (x) Amounts received by a missionary living abroad
494 which may be excluded from income for federal income tax purposes.

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

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

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

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



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

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

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

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

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

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

547 (6) A shareholder of an S corporation, as defined in Section
548 27-8-3(1)(g), shall take into account the income, loss, deduction



549 or credit of the S corporation only to the extent provided in
550 Section 27-8-7(2).

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

564 **SECTION 3.** This act shall take effect and be in force from
565 and after January 1, 2002.

