

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.

