

By: Representative Zuber

To: Ways and Means

HOUSE BILL NO. 712

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

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

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

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

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



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

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

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

38 (b) Casual sales of property.

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

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



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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

158 (k) Amounts received as retirement allowances,  
159 pensions, annuities or optional retirement allowances paid under



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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

255 (b) Civilian employees. Gross income does not include  
256 compensation received for active service as an employee for any





257 month during any part of which such employee is in a missing  
258 status during the Vietnam Conflict as a result of such conflict.

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

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

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

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

287 (g) "Compensation" means (i) basic pay; (ii) special  
288 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)



289 basic allowance for subsistence; and (vi) station per diem  
290 allowances for not more than ninety (90) days.

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

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

300 (6) A shareholder of an S corporation, as defined in Section  
301 27-8-3(1)(g), shall take into account the income, loss, deduction  
302 or credit of the S corporation only to the extent provided in  
303 Section 27-8-7(2).

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

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



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

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

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

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

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

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

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

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



354 exchanges or payment for services, or require consolidated returns  
355 of affiliates.

356 (e) Alimony and separate maintenance payments. The  
357 federal rules, regulations and revenue procedures in determining  
358 the deductibility and taxability of alimony payments shall be  
359 followed in this state.

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

447           (n) Compensation received for active service as a  
448 member below the grade of commissioned officer and so much of the  
449 compensation as does not exceed the aggregate sum of Five Hundred  
450 Dollars (\$500.00) per month received for active service as a  
451 commissioned officer in the Armed Forces of the United States for  
452 any month during any part of which such members of the Armed



453 Forces (i) served in a combat zone as designated by Executive  
454 Order of the President of the United States; or (ii) was  
455 hospitalized as a result of wounds, disease or injury incurred  
456 while serving in such combat zone.

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

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

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

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

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



484 (t) Dividends received by a holding corporation, as  
485 defined in Section 27-13-1, from a subsidiary corporation, as  
486 defined in Section 27-13-1.

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

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

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

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

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

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

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

514 (c) Period of conflict. For the purpose of this  
515 subsection, the Vietnam Conflict began February 28, 1961, and ends  
516 on the date designated by the President by Executive Order as the





517 date of the termination of combatant activities in Vietnam. For  
518 the purpose of this subsection, an individual is in a missing  
519 status as a result of the Vietnam Conflict if immediately before  
520 such status began he was performing service in Vietnam or was  
521 performing service in Southeast Asia in direct support of military  
522 operations in Vietnam. "Southeast Asia" as used in this paragraph  
523 is defined to include Cambodia, Laos, Thailand and waters adjacent  
524 thereto.

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

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

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

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

546 (h) If refund or credit of any overpayment of tax for  
547 any taxable year resulting from the application of subsection (5)  
548 of this section is prevented by the operation of any law or rule  
549 of law, such refund or credit of such overpayment of tax may,



550 nevertheless, be made or allowed if claim therefor is filed with  
551 the State Tax Commission within three (3) years after the date of  
552 the enactment of this subsection.

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

555 (6) A shareholder of an S corporation, as defined in Section  
556 27-8-3(1)(g), shall take into account the income, loss, deduction  
557 or credit of the S corporation only to the extent provided in  
558 Section 27-8-7(2).

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

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

