

By: Representative Zuber

To: Ways and Means

HOUSE BILL NO. 713

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 PARTIALLY EXCLUDE COMPENSATION
4 RECEIVED BY A NONRESIDENT OF THIS STATE FOR ACTIVE FEDERAL SERVICE
5 AS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES IN AN ACTIVE
6 DUTY STATUS WHILE SUCH PERSON IS STATIONED IN THE STATE OF
7 MISSISSIPPI; 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 nonresident 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 in
247 the State of Mississippi pursuant to military orders shall be
248 excluded from gross income in the same amount as provided in
249 paragraph (m) of this subsection (4) for compensation received by
250 a member of the National Guard or Reserve Forces of the United
251 States.

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

253 (a) Members of the Armed Forces. Gross income does not
254 include compensation received for active service as a member of
255 the Armed Forces of the United States for any month during any
256 part of which such member is in a missing status, as defined in



257 paragraph (d) of this subsection, during the Vietnam Conflict as a
258 result of such conflict.

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

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

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

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

286 (f) "Employee" means one who is a citizen or national
287 of the United States or an alien admitted to the United States for
288 permanent residence and is a resident of the State of Mississippi



289 and is employed in or under a federal executive agency or
290 department of the Armed Forces.

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

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

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

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

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

310 27-7-15. (1) For the purposes of this article, except as
311 otherwise provided, the term "gross income" means and includes the
312 income of a taxpayer derived from salaries, wages, fees or
313 compensation for service, of whatever kind and in whatever form
314 paid, including income from governmental agencies and subdivisions
315 thereof; or from professions, vocations, trades, businesses,
316 commerce or sales, or renting or dealing in property, or
317 reacquired property; also from annuities, interest, rents,
318 dividends, securities, insurance premiums, reinsurance premiums,
319 considerations for supplemental insurance contracts, or the
320 transaction of any business carried on for gain or profit, or
321 gains, or profits, and income derived from any source whatever and



322 in whatever form paid. The amount of all such items of income
323 shall be included in the gross income for the taxable year in
324 which received by the taxpayer. The amount by which an eligible
325 employee's salary is reduced pursuant to a salary reduction
326 agreement authorized under Section 25-17-5 shall be excluded from
327 the term "gross income" within the meaning of this article.

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

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

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

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

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

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

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



355 matter of the sale, exchange or payment for services, the
356 commissioner shall prescribe uniform and equitable rules for
357 determining the true value of the gross income, gross sales,
358 exchanges or payment for services, or require consolidated returns
359 of affiliates.

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

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

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

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

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

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

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

386 (d) Interest upon the obligations of the United States
387 or its possessions, or securities issued under the provisions of



388 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
389 War Finance Corporation, or obligations of the State of
390 Mississippi or political subdivisions thereof.

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

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

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

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

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



420 (j) Amounts paid by the United States to a person as
421 added compensation for hazardous duty pay as a member of the Armed
422 Forces of the United States in a combat zone designated by
423 Executive Order of the President of the United States.

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

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

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

451 (n) Compensation received for active service as a
452 member below the grade of commissioned officer and so much of the



453 compensation as does not exceed the aggregate sum of Five Hundred
454 Dollars (\$500.00) per month received for active service as a
455 commissioned officer in the Armed Forces of the United States for
456 any month during any part of which such members of the Armed
457 Forces (i) served in a combat zone as designated by Executive
458 Order of the President of the United States; or (ii) was
459 hospitalized as a result of wounds, disease or injury incurred
460 while serving in such combat zone.

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

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

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

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

484 (s) Amounts paid by the Mississippi Soil and Water
485 Conservation Commission from the Mississippi Soil and Water



486 Cost-Share Program for the installation of water quality best
487 management practices.

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

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

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

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

503 (x) Compensation received by a nonresident for active
504 federal service as a member of the Armed Forces of the United
505 States in an active duty status while such person is stationed in
506 the State of Mississippi pursuant to military orders shall be
507 excluded from gross income in the same amount as provided in
508 paragraph (m) of this subsection (4) for compensation received by
509 a member of the National Guard or Reserve Forces of the United
510 States.

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

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



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

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

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

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

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



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

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

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

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

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

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

