

By: Representatives Robinson (84th),
Jennings

To: Ways and Means

HOUSE BILL NO. 789

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF THE TERM "GROSS INCOME" TO EXCLUDE
3 COMPENSATION RECEIVED FOR ACTIVE FEDERAL SERVICE AS A MEMBER OF
4 THE ARMED FORCES OF THE UNITED STATES IN AN ACTIVE DUTY STATUS; TO
5 AMEND SECTION 27-7-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY
6 THERETO; AND FOR RELATED PURPOSES.

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

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

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

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



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

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

37 (b) Casual sales of property.

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

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



63 contributed, transferred or disposed of in any manner and for any
64 purpose by the original note holder, or the original note holder
65 is merged, liquidated, dissolved or withdrawn from this state,
66 then all deferred tax payments under this section shall
67 immediately become due and payable.

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

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

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

93 (e) Alimony and separate maintenance payments. The
94 federal rules, regulations and revenue procedures in determining



95 the deductibility and taxability of alimony payments shall be
96 followed in this state.

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

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

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

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

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

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

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

124 (e) The amounts received through accident or health
125 insurance as compensation for personal injuries or sickness, plus
126 the amount of any damages received for such injuries or such
127 sickness or injuries, or through the War Risk Insurance Act, or



128 any law for the benefit or relief of injured or disabled members
129 of the military or naval forces of the United States.

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

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

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

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

153 * * *

154 (j) 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 (j) shall be available to the spouse or other beneficiary at the
164 death of the primary retiree.

165 (k) 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 (j) 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 (k) shall be available
174 to the spouse or other beneficiary at the death of the primary
175 retiree.

176 (l) 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 (m) Compensation received for active federal service as
182 a member of the Armed Forces of the United States in an active
183 duty status.

184 (n) The proceeds received from federal and state
185 forestry incentives programs.

186 (o) The amount representing the difference between the
187 increase of gross income derived from sales for export outside the
188 United States as compared to the preceding tax year wherein gross
189 income from export sales was highest, and the net increase in
190 expenses attributable to such increased exports. In the absence
191 of direct accounting the ratio of net profits to total sales may
192 be applied to the increase in export sales. This paragraph (o)
193 shall only apply to businesses located in this state engaging in



194 the international export of Mississippi goods and services. Such
195 goods or services shall have at least fifty percent (50%) of value
196 added at a location in Mississippi.

197 (p) Amounts paid by the federal government for the
198 construction of soil conservation systems as required by a
199 conservation plan adopted pursuant to 16 USCS 3801 et seq.

200 (q) The amount deposited in a medical savings account,
201 and any interest accrued thereon, that is a part of a medical
202 savings account program as specified in the Medical Savings
203 Account Act under Sections 71-9-1 through 71-9-9; provided,
204 however, that any amount withdrawn from such account for purposes
205 other than paying eligible medical expense or to procure health
206 coverage, shall be included in gross income.

207 (r) Amounts paid by the Mississippi Soil and Water
208 Conservation Commission from the Mississippi Soil and Water
209 Cost-Share Program for the installation of water quality best
210 management practices.

211 (s) Dividends received by a holding corporation, as
212 defined in Section 27-13-1, from a subsidiary corporation, as
213 defined in Section 27-13-1.

214 (t) Interest, dividends, gains or income of any kind on
215 any account in the Mississippi Affordable College Savings Trust
216 Fund, as established in Sections 37-155-101 through 37-155-125, to
217 the extent that such amounts remain on deposit in the MACS Trust
218 Fund or are withdrawn pursuant to a qualified withdrawal, as
219 defined in Section 37-155-105.

220 (u) Interest, dividends or gains accruing on the
221 payments made pursuant to a prepaid tuition contract, as provided
222 for in Section 37-155-17.

223 (v) Income resulting from transactions with a related
224 member where the related member subject to tax under this chapter
225 was required to, and did in fact, add back the expense of such
226 transactions as required by Section 27-7-17(2). Under no



227 circumstances may the exclusion from income exceed the deduction
228 add-back of the related member, nor shall the exclusion apply to
229 any income otherwise excluded under this chapter.

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

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

234 (a) Members of the Armed Forces. Gross income does not
235 include compensation received for active service as a member of
236 the Armed Forces of the United States for any month during any
237 part of which such member is in a missing status, as defined in
238 paragraph (d) of this subsection, during the Vietnam Conflict as a
239 result of such conflict.

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

244 (c) Period of conflict. For the purpose of this
245 subsection, the Vietnam Conflict began February 28, 1961, and ends
246 on the date designated by the President by Executive Order as the
247 date of the termination of combatant activities in Vietnam. For
248 the purpose of this subsection, an individual is in a missing
249 status as a result of the Vietnam Conflict if immediately before
250 such status began he was performing service in Vietnam or was
251 performing service in Southeast Asia in direct support of military
252 operations in Vietnam. "Southeast Asia" as used in this paragraph
253 is defined to include Cambodia, Laos, Thailand and waters adjacent
254 thereto.

255 (d) "Missing status" means the status of an employee or
256 member of the Armed Forces who is in active service and is
257 officially carried or determined to be absent in a status of (i)
258 missing; (ii) missing in action; (iii) interned in a foreign
259 country; (iv) captured, beleaguered or besieged by a hostile



260 force; or (v) detained in a foreign country against his will; but
261 does not include the status of an employee or member of the Armed
262 Forces for a period during which he is officially determined to be
263 absent from his post of duty without authority.

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

267 (f) "Employee" means one who is a citizen or national
268 of the United States or an alien admitted to the United States for
269 permanent residence and is a resident of the State of Mississippi
270 and is employed in or under a federal executive agency or
271 department of the Armed Forces.

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

276 (h) If refund or credit of any overpayment of tax for
277 any taxable year resulting from the application of subsection (5)
278 of this section is prevented by the operation of any law or rule
279 of law, such refund or credit of such overpayment of tax may,
280 nevertheless, be made or allowed if claim therefor is filed with
281 the State Tax Commission within three (3) years after the date of
282 the enactment of this subsection.

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

285 (6) A shareholder of an S corporation, as defined in Section
286 27-8-3(1)(g), shall take into account the income, loss, deduction
287 or credit of the S corporation only to the extent provided in
288 Section 27-8-7(2).

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

291 27-7-15. (1) For the purposes of this article, except as
292 otherwise provided, the term "gross income" means and includes the



293 income of a taxpayer derived from salaries, wages, fees or
294 compensation for service, of whatever kind and in whatever form
295 paid, including income from governmental agencies and subdivisions
296 thereof; or from professions, vocations, trades, businesses,
297 commerce or sales, or renting or dealing in property, or
298 reacquired property; also from annuities, interest, rents,
299 dividends, securities, insurance premiums, reinsurance premiums,
300 considerations for supplemental insurance contracts, or the
301 transaction of any business carried on for gain or profit, or
302 gains, or profits, and income derived from any source whatever and
303 in whatever form paid. The amount of all such items of income
304 shall be included in the gross income for the taxable year in
305 which received by the taxpayer. The amount by which an eligible
306 employee's salary is reduced pursuant to a salary reduction
307 agreement authorized under Section 25-17-5 shall be excluded from
308 the term "gross income" within the meaning of this article.

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

312 (a) Dealers in property. Federal rules, regulations
313 and revenue procedures shall be followed with respect to
314 installment sales.

315 (b) Casual sales of property. Federal rules,
316 regulations and revenue procedures shall be followed with respect
317 to installment sales.

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

322 (ii) The term "installment method" means a method
323 under which the income recognized for any taxable year from the
324 disposition is that proportion of the payments received in that



325 year which the gross profit (realized or to be realized when
326 payment is completed) bears to the total contract price.

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

330 (d) Affiliated companies or persons. As regards sales,
331 exchanges or payments for services from one to another of
332 affiliated companies or persons or under other circumstances where
333 the relation between the buyer and seller is such that gross
334 proceeds from the sale or the value of the exchange or the payment
335 for services are not indicative of the true value of the subject
336 matter of the sale, exchange or payment for services, the
337 commissioner shall prescribe uniform and equitable rules for
338 determining the true value of the gross income, gross sales,
339 exchanges or payment for services, or require consolidated returns
340 of affiliates.

341 (e) Alimony and separate maintenance payments. The
342 federal rules, regulations and revenue procedures in determining
343 the deductibility and taxability of alimony payments shall be
344 followed in this state.

345 (f) Reimbursement for expenses of moving. There shall
346 be included in gross income (as compensation for services) any
347 amount received or accrued, directly or indirectly, by an
348 individual as a payment for or reimbursement of expenses of moving
349 from one residence to another residence which is attributable to
350 employment or self-employment.

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

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

356 (a) The proceeds of life insurance policies and
357 contracts paid upon the death of the insured. However, the income



358 from the proceeds of such policies or contracts shall be included
359 in the gross income.

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

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

367 (d) Interest upon the obligations of the United States
368 or its possessions, or securities issued under the provisions of
369 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
370 War Finance Corporation, or obligations of the State of
371 Mississippi or political subdivisions thereof.

372 (e) The amounts received through accident or health
373 insurance as compensation for personal injuries or sickness, plus
374 the amount of any damages received for such injuries or such
375 sickness or injuries, or through the War Risk Insurance Act, or
376 any law for the benefit or relief of injured or disabled members
377 of the military or naval forces of the United States.

378 (f) Income received by any religious denomination or by
379 any institution or trust for moral or mental improvements,
380 religious, Bible, tract, charitable, benevolent, fraternal,
381 missionary, hospital, infirmary, educational, scientific,
382 literary, library, patriotic, historical or cemetery purposes or
383 for two (2) or more of such purposes, if such income be used
384 exclusively for carrying out one or more of such purposes.

385 (g) Income received by a domestic corporation which is
386 "taxable in another state" as this term is defined in this
387 article, derived from business activity conducted outside this
388 state. Domestic corporations taxable both within and without the
389 state shall determine Mississippi income on the same basis as



390 provided for foreign corporations under the provisions of this
391 article.

392 (h) In case of insurance companies, there shall be
393 excluded from gross income such portion of actual premiums
394 received from an individual policyholder as is paid back or
395 credited to or treated as an abatement of premiums of such
396 policyholder within the taxable year.

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

401 * * *

402 (j) Amounts received as retirement allowances,
403 pensions, annuities or optional retirement allowances paid under
404 the federal Social Security Act, the Railroad Retirement Act, the
405 Federal Civil Service Retirement Act, or any other retirement
406 system of the United States government, retirement allowances paid
407 under the Mississippi Public Employees' Retirement System,
408 Mississippi Highway Safety Patrol Retirement System or any other
409 retirement system of the State of Mississippi or any political
410 subdivision thereof. The exemption allowed under this paragraph
411 (j) shall be available to the spouse or other beneficiary at the
412 death of the primary retiree.

413 (k) Amounts received as retirement allowances,
414 pensions, annuities or optional retirement allowances paid by any
415 public or governmental retirement system not designated in
416 paragraph (j) or any private retirement system or plan of which
417 the recipient was a member at any time during the period of his
418 employment. Amounts received as a distribution under a Roth
419 individual retirement account shall be treated in the same manner
420 as provided under the Internal Revenue Code of 1986, as amended.
421 The exemption allowed under this paragraph (k) shall be available



422 to the spouse or other beneficiary at the death of the primary
423 retiree.

424 (l) Compensation not to exceed the aggregate sum of
425 Five Thousand Dollars (\$5,000.00) for any taxable year received by
426 a member of the National Guard or Reserve Forces of the United
427 States as payment for inactive duty training, active duty training
428 and state active duty.

429 (m) Compensation received for active federal service as
430 a member of the Armed Forces of the United States in an active
431 duty status.

432 (n) The proceeds received from federal and state
433 forestry incentives programs.

434 (o) The amount representing the difference between the
435 increase of gross income derived from sales for export outside the
436 United States as compared to the preceding tax year wherein gross
437 income from export sales was highest, and the net increase in
438 expenses attributable to such increased exports. In the absence
439 of direct accounting the ratio of net profits to total sales may
440 be applied to the increase in export sales. This paragraph (o)
441 shall only apply to businesses located in this state engaging in
442 the international export of Mississippi goods and services. Such
443 goods or services shall have at least fifty percent (50%) of value
444 added at a location in Mississippi.

445 (p) Amounts paid by the federal government for the
446 construction of soil conservation systems as required by a
447 conservation plan adopted pursuant to 16 USCS 3801 et seq.

448 (q) The amount deposited in a medical savings account,
449 and any interest accrued thereon, that is a part of a medical
450 savings account program as specified in the Medical Savings
451 Account Act under Sections 71-9-1 through 71-9-9; provided,
452 however, that any amount withdrawn from such account for purposes
453 other than paying eligible medical expense or to procure health
454 coverage, shall be included in gross income.



455 (r) Amounts paid by the Mississippi Soil and Water
456 Conservation Commission from the Mississippi Soil and Water
457 Cost-Share Program for the installation of water quality best
458 management practices.

459 (s) Dividends received by a holding corporation, as
460 defined in Section 27-13-1, from a subsidiary corporation, as
461 defined in Section 27-13-1.

462 (t) Interest, dividends, gains or income of any kind on
463 any account in the Mississippi Affordable College Savings Trust
464 Fund, as established in Sections 37-155-101 through 37-155-125, to
465 the extent that such amounts remain on deposit in the MACS Trust
466 Fund or are withdrawn pursuant to a qualified withdrawal, as
467 defined in Section 37-155-105.

468 (u) Interest, dividends or gains accruing on the
469 payments made pursuant to a prepaid tuition contract, as provided
470 for in Section 37-155-17.

471 (v) Amounts that are subject to the tax levied pursuant
472 to Section 27-7-901, and are paid to patrons by gaming
473 establishments licensed under the Mississippi Gaming Control Act.

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

475 (a) Members of the Armed Forces. Gross income does not
476 include compensation received for active service as a member of
477 the Armed Forces of the United States for any month during any
478 part of which such member is in a missing status, as defined in
479 paragraph (d) of this subsection, during the Vietnam Conflict as a
480 result of such conflict.

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

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



488 date of the termination of combatant activities in Vietnam. For
489 the purpose of this subsection, an individual is in a missing
490 status as a result of the Vietnam Conflict if immediately before
491 such status began he was performing service in Vietnam or was
492 performing service in Southeast Asia in direct support of military
493 operations in Vietnam. "Southeast Asia" as used in this paragraph
494 is defined to include Cambodia, Laos, Thailand and waters adjacent
495 thereto.

496 (d) "Missing status" means the status of an employee or
497 member of the Armed Forces who is in active service and is
498 officially carried or determined to be absent in a status of (i)
499 missing; (ii) missing in action; (iii) interned in a foreign
500 country; (iv) captured, beleaguered or besieged by a hostile
501 force; or (v) detained in a foreign country against his will; but
502 does not include the status of an employee or member of the Armed
503 Forces for a period during which he is officially determined to be
504 absent from his post of duty without authority.

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

508 (f) "Employee" means one who is a citizen or national
509 of the United States or an alien admitted to the United States for
510 permanent residence and is a resident of the State of Mississippi
511 and is employed in or under a federal executive agency or
512 department of the Armed Forces.

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

517 (h) If refund or credit of any overpayment of tax for
518 any taxable year resulting from the application of subsection (5)
519 of this section is prevented by the operation of any law or rule
520 of law, such refund or credit of such overpayment of tax may,



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

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

526 (6) A shareholder of an S corporation, as defined in Section
527 27-8-3(1)(g), shall take into account the income, loss, deduction
528 or credit of the S corporation only to the extent provided in
529 Section 27-8-7(2).

530 **SECTION 2.** Section 27-7-17, Mississippi Code of 1972, is
531 amended as follows:

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

534 27-7-17. In computing taxable income, there shall be allowed
535 as deductions:

536 (1) **Business deductions.**

537 (a) Business expenses. All the ordinary and necessary
538 expenses paid or incurred during the taxable year in carrying on
539 any trade or business, including a reasonable allowance for
540 salaries or other compensation for personal services actually
541 rendered; nonreimbursable traveling expenses incident to current
542 employment, including a reasonable amount expended for meals and
543 lodging while away from home in the pursuit of a trade or
544 business; and rentals or other payments required to be made as a
545 condition of the continued use or possession, for purposes of the
546 trade or business of property to which the taxpayer has not taken
547 or is not taking title or in which he had no equity. Expense
548 incurred in connection with earning and distributing nontaxable
549 income is not an allowable deduction. Limitations on
550 entertainment expenses shall conform to the provisions of the
551 Internal Revenue Code of 1986.

552 (b) Interest. All interest paid or accrued during the
553 taxable year on business indebtedness, except interest upon the



554 indebtedness for the purchase of tax-free bonds, or any stocks,
555 the dividends from which are nontaxable under the provisions of
556 this article; provided, however, in the case of securities
557 dealers, interest payments or accruals on loans, the proceeds of
558 which are used to purchase tax-exempt securities, shall be
559 deductible if income from otherwise tax-free securities is
560 reported as income. Investment interest expense shall be limited
561 to investment income. Interest expense incurred for the purchase
562 of treasury stock, to pay dividends, or incurred as a result of an
563 undercapitalized affiliated corporation may not be deducted unless
564 an ordinary and necessary business purpose can be established to
565 the satisfaction of the commissioner. For the purposes of this
566 paragraph, the phrase "interest upon the indebtedness for the
567 purchase of tax-free bonds" applies only to the indebtedness
568 incurred for the purpose of directly purchasing tax-free bonds and
569 does not apply to any other indebtedness incurred in the regular
570 course of the taxpayer's business. Any corporation, association,
571 organization or other entity taxable under Section 27-7-23(c)
572 shall allocate interest expense as provided in Section
573 27-7-23(c)(3)(I).

574 (c) Taxes. Taxes paid or accrued within the taxable
575 year, except state and federal income taxes, excise taxes based on
576 or measured by net income, estate and inheritance taxes, gift
577 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
578 use taxes unless incurred as an item of expense in a trade or
579 business or in the production of taxable income. In the case of
580 an individual, taxes permitted as an itemized deduction under the
581 provisions of subsection (3)(a) of this section are to be claimed
582 thereunder.

583 (d) Business losses.

584 (i) Losses sustained during the taxable year not
585 compensated for by insurance or otherwise, if incurred in trade or
586 business, or nonbusiness transactions entered into for profit.

587 (ii) Limitations on losses from passive activities
588 and rental real estate shall conform to the provisions of the
589 Internal Revenue Code of 1986.

590 (e) Bad debts. Losses from debts ascertained to be
591 worthless and charged off during the taxable year, if sustained in
592 the conduct of the regular trade or business of the taxpayer;
593 provided, that such losses shall be allowed only when the taxpayer
594 has reported as income, on the accrual basis, the amount of such
595 debt or account.

596 (f) Depreciation. A reasonable allowance for
597 exhaustion, wear and tear of property used in the trade or
598 business, or rental property, and depreciation upon buildings
599 based upon their reasonable value as of March 16, 1912, if
600 acquired prior thereto, and upon cost if acquired subsequent to
601 that date.

602 (g) Depletion. In the case of mines, oil and gas
603 wells, other natural deposits and timber, a reasonable allowance
604 for depletion and for depreciation of improvements, based upon
605 cost, including cost of development, not otherwise deducted, or
606 fair market value as of March 16, 1912, if acquired prior to that
607 date, such allowance to be made upon regulations prescribed by the
608 commissioner, with the approval of the Governor.

609 (h) Contributions or gifts. Except as otherwise
610 provided in subsection (3)(a) of this section for individuals,
611 contributions or gifts made by corporations within the taxable
612 year to corporations, organizations, associations or institutions,
613 including Community Chest funds, foundations and trusts created
614 solely and exclusively for religious, charitable, scientific or
615 educational purposes, or for the prevention of cruelty to children
616 or animals, no part of the net earnings of which inure to the
617 benefit of any private stockholder or individual. This deduction
618 shall be allowed in an amount not to exceed twenty percent (20%)
619 of the net income. Such contributions or gifts shall be allowable



620 as deductions only if verified under rules and regulations
621 prescribed by the commissioner, with the approval of the Governor.
622 Contributions made in any form other than cash shall be allowed as
623 a deduction, subject to the limitations herein provided, in an
624 amount equal to the actual market value of the contributions at
625 the time the contribution is actually made and consummated.

626 (i) Reserve funds - insurance companies. In the case
627 of insurance companies the net additions required by law to be
628 made within the taxable year to reserve funds when such reserve
629 funds are maintained for the purpose of liquidating policies at
630 maturity.

631 (j) Annuity income. The sums, other than dividends,
632 paid within the taxpayer year on policy or annuity contracts when
633 such income has been included in gross income.

634 (k) Contributions to employee pension plans.
635 Contributions made by an employer to a plan or a trust forming
636 part of a pension plan, stock bonus plan, disability or
637 death-benefit plan, or profit-sharing plan of such employer for
638 the exclusive benefit of some or all of his, their, or its
639 employees, or their beneficiaries, shall be deductible from his,
640 their, or its income only to the extent that, and for the taxable
641 year in which, the contribution is deductible for federal income
642 tax purposes under the Internal Revenue Code of 1986 and any other
643 provisions of similar purport in the Internal Revenue Laws of the
644 United States, and the rules, regulations, rulings and
645 determinations promulgated thereunder, provided that:

646 (i) The plan or trust be irrevocable.

647 (ii) The plan or trust constitute a part of a
648 pension plan, stock bonus plan, disability or death-benefit plan,
649 or profit-sharing plan for the exclusive benefit of some or all of
650 the employer's employees and/or officers, or their beneficiaries,
651 for the purpose of distributing the corpus and income of the plan



652 or trust to such employees and/or officers, or their
653 beneficiaries.

654 (iii) No part of the corpus or income of the plan
655 or trust can be used for purposes other than for the exclusive
656 benefit of employees and/or officers, or their beneficiaries.

657 Contributions to all plans or to all trusts of real or
658 personal property (or real and personal property combined) or to
659 insured plans created under a retirement plan for which provision
660 has been made under the laws of the United States of America,
661 making such contributions deductible from income for federal
662 income tax purposes, shall be deductible only to the same extent
663 under the Income Tax Laws of the State of Mississippi.

664 (1) Net operating loss carrybacks and carryovers. A
665 net operating loss for any taxable year ending after December 31,
666 1993, and taxable years thereafter, shall be a net operating loss
667 carryback to each of the three (3) taxable years preceding the
668 taxable year of the loss. If the net operating loss for any
669 taxable year is not exhausted by carrybacks to the three (3)
670 taxable years preceding the taxable year of the loss, then there
671 shall be a net operating loss carryover to each of the fifteen
672 (15) taxable years following the taxable year of the loss
673 beginning with any taxable year after December 31, 1991.

674 For any taxable year ending after December 31, 1997, the
675 period for net operating loss carrybacks and net operating loss
676 carryovers shall be the same as those established by the Internal
677 Revenue Code and the rules, regulations, rulings and
678 determinations promulgated thereunder.

679 The term "net operating loss," for the purposes of this
680 paragraph, shall be the excess of the deductions allowed over the
681 gross income; provided, however, the following deductions shall
682 not be allowed in computing same:

683 (i) No net operating loss deduction shall be
684 allowed.



685 (ii) No personal exemption deduction shall be
686 allowed.

687 (iii) Allowable deductions which are not
688 attributable to taxpayer's trade or business shall be allowed only
689 to the extent of the amount of gross income not derived from such
690 trade or business.

691 Any taxpayer entitled to a carryback period as provided by
692 this paragraph may elect to relinquish the entire carryback period
693 with respect to a net operating loss for any taxable year ending
694 after December 31, 1991. The election shall be made in the manner
695 prescribed by the State Tax Commission and shall be made by the
696 due date, including extensions of time, for filing the taxpayer's
697 return for the taxable year of the net operating loss for which
698 the election is to be in effect. The election, once made for any
699 taxable year, shall be irrevocable for that taxable year.

700 (m) Amortization of pollution or environmental control
701 facilities. Allowance of deduction. Every taxpayer, at his
702 election, shall be entitled to a deduction for pollution or
703 environmental control facilities to the same extent as that
704 allowed under the Internal Revenue Code and the rules,
705 regulations, rulings and determinations promulgated thereunder.

706 (n) Dividend distributions - real estate investment
707 trusts. "Real estate investment trust" (hereinafter referred to
708 as REIT) shall have the meaning ascribed to such term in Section
709 856 of the federal Internal Revenue Code of 1986, as amended. A
710 REIT is allowed a dividend distributed deduction if the dividend
711 distributions meet the requirements of Section 857 or are
712 otherwise deductible under Section 858 or 860, federal Internal
713 Revenue Code of 1986, as amended. In addition:

714 (i) A dividend distributed deduction shall only be
715 allowed for dividends paid by a publicly traded REIT. A qualified
716 REIT subsidiary shall be allowed a dividend distributed deduction
717 if its owner is a publicly traded REIT.



718 (ii) Income generated from real estate contributed
719 or sold to a REIT by a shareholder or related party shall not give
720 rise to a dividend distributed deduction, unless the shareholder
721 or related party would have received the dividend distributed
722 deduction under this chapter.

723 (iii) A holding corporation receiving a dividend
724 from a REIT shall not be allowed the deduction in Section
725 27-7-15(4) (s).

726 (iv) Any REIT not allowed the dividend distributed
727 deduction in the federal Internal Revenue Code of 1986, as
728 amended, shall not be allowed a dividend distributed deduction
729 under this chapter.

730 The commissioner is authorized to promulgate rules and
731 regulations consistent with the provisions in Section 269 of the
732 federal Internal Revenue Code of 1986, as amended, so as to
733 prevent the evasion or avoidance of state income tax.

734 (o) Contributions to college savings trust fund
735 accounts. Contributions or payments to a Mississippi Affordable
736 College Savings Program account are deductible as provided under
737 Section 37-155-113. Payments made under a prepaid tuition
738 contract entered into under the Mississippi Prepaid Affordable
739 College Tuition Program are deductible as provided under Section
740 37-155-17.

741 (2) **Restrictions on the deductibility of certain intangible**
742 **expenses and interest expenses with a related member.**

743 (a) As used in this subsection (2):

744 (i) "Intangible expenses and costs" include:

745 1. Expenses, losses and costs for, related
746 to, or in connection directly or indirectly with the direct or
747 indirect acquisition, use, maintenance or management, ownership,
748 sale, exchange or any other disposition of intangible property to
749 the extent such amounts are allowed as deductions or costs in
750 determining taxable income under this chapter;



751 2. Expenses or losses related to or incurred
752 in connection directly or indirectly with factoring transactions
753 or discounting transactions;

754 3. Royalty, patent, technical and copyright
755 fees;

756 4. Licensing fees; and

757 5. Other similar expenses and costs.

758 (ii) "Intangible property" means patents, patent
759 applications, trade names, trademarks, service marks, copyrights
760 and similar types of intangible assets.

761 (iii) "Interest expenses and cost" means amounts
762 directly or indirectly allowed as deductions for purposes of
763 determining taxable income under this chapter to the extent such
764 interest expenses and costs are directly or indirectly for,
765 related to, or in connection with the direct or indirect
766 acquisition maintenance, management, ownership, sale, exchange or
767 disposition of intangible property.

768 (iv) "Related member" means an entity or person
769 that, with respect to the taxpayer during all or any portion of
770 the taxable year, is a related entity, a component member as
771 defined in the Internal Revenue Code, or is an entity or a person
772 to or from whom there is attribution of stock ownership in
773 accordance with Section 1563(e) of the Internal Revenue Code.

774 (v) "Related entity" means:

775 1. A stockholder who is an individual or a
776 member of the stockholder's family, as defined in regulations
777 prescribed by the commissioner, if the stockholder and the members
778 of the stockholder's family own, directly, indirectly,
779 beneficially or constructively, in the aggregate, at least fifty
780 percent (50%) of the value of the taxpayer's outstanding stock;

781 2. A stockholder, or a stockholder's
782 partnership, limited liability company, estate, trust or
783 corporation, if the stockholder and the stockholder's



784 partnerships, limited liability companies, estates, trusts and
785 corporations own, directly, indirectly, beneficially or
786 constructively, in the aggregate, at least fifty percent (50%) of
787 the value of the taxpayer's outstanding stock;

788 3. A corporation, or a party related to the
789 corporation in a manner that would require an attribution of stock
790 from the corporation to the party or from the party to the
791 corporation, if the taxpayer owns, directly, indirectly,
792 beneficially or constructively, at least fifty percent (50%) of
793 the value of the corporation's outstanding stock under regulation
794 prescribed by the commissioner;

795 4. Any entity or person which would be a
796 related member under this section if the taxpayer were considered
797 a corporation for purposes of this section.

798 (b) In computing net income, a taxpayer shall add back
799 otherwise deductible interest expenses and costs and intangible
800 expenses and costs directly or indirectly paid, accrued to or
801 incurred, in connection directly or indirectly with one or more
802 direct or indirect transactions with one or more related members.

803 (c) The adjustments required by this subsection shall
804 not apply to such portion of interest expenses and costs and
805 intangible expenses and costs that the taxpayer can establish
806 meets one (1) of the following:

807 (i) The related member directly or indirectly
808 paid, accrued or incurred such portion to a person during the same
809 income year who is not a related member; or

810 (ii) The transaction giving rise to the interest
811 expenses and costs or intangible expenses and costs between the
812 taxpayer and related member was done primarily for a valid
813 business purpose other than the avoidance of taxes, and the
814 related member is not primarily engaged in the acquisition, use,
815 maintenance or management, ownership, sale, exchange or any other
816 disposition of intangible property.



817 (d) Nothing in this subsection shall require a taxpayer
818 to add to its net income more than once any amount of interest
819 expenses and costs or intangible expenses and costs that the
820 taxpayer pays, accrues or incurs to a related member.

821 (e) The commissioner may prescribe such regulations as
822 necessary or appropriate to carry out the purposes of this
823 subsection, including, but not limited to, clarifying definitions
824 of terms, rules of stock attribution, factoring and discount
825 transactions.

826 (3) **Individual nonbusiness deductions.**

827 (a) The amount allowable for individual nonbusiness
828 itemized deductions for federal income tax purposes where the
829 individual is eligible to elect, for the taxable year, to itemize
830 deductions on his federal return except the following:

- 831 (i) The deduction for state income taxes paid;
832 (ii) The deduction for gaming losses from gaming
833 establishments licensed under the Mississippi Gaming Control Act;
834 (iii) The deduction for taxes collected by
835 licensed gaming establishments pursuant to Section 27-7-901.

836 (b) In lieu of the individual nonbusiness itemized
837 deductions authorized in paragraph (a), for all purposes other
838 than ordinary and necessary expenses paid or incurred during the
839 taxable year in carrying on any trade or business, an optional
840 standard deduction of:

841 (i) Three Thousand Four Hundred Dollars
842 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
843 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
844 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
845 in the case of married individuals filing a joint or combined
846 return;

847 (ii) One Thousand Seven Hundred Dollars
848 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
849 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand



850 Three Hundred Dollars (\$2,300.00) for each calendar year
851 thereafter in the case of married individuals filing separate
852 returns;

853 (iii) Three Thousand Four Hundred Dollars
854 (\$3,400.00) in the case of a head of family; or

855 (iv) Two Thousand Three Hundred Dollars
856 (\$2,300.00) in the case of an individual who is not married.

857 In the case of a husband and wife living together, having
858 separate incomes, and filing combined returns, the standard
859 deduction authorized may be divided in any manner they choose. In
860 the case of separate returns by a husband and wife, the standard
861 deduction shall not be allowed to either if the taxable income of
862 one of the spouses is determined without regard to the standard
863 deduction.

864 (c) A nonresident individual shall be allowed the same
865 individual nonbusiness deductions as are authorized for resident
866 individuals in paragraph (a) or (b) of this subsection; however,
867 the nonresident individual is entitled only to that proportion of
868 the individual nonbusiness deductions as his net income from
869 sources within the State of Mississippi bears to his total or
870 entire net income from all sources.

871 (3) Nothing in this section shall permit the same item to be
872 deducted more than once, either in fact or in effect.

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

875 27-7-17. In computing taxable income, there shall be allowed
876 as deductions:

877 (1) **Business deductions.**

878 (a) Business expenses. All the ordinary and necessary
879 expenses paid or incurred during the taxable year in carrying on
880 any trade or business, including a reasonable allowance for
881 salaries or other compensation for personal services actually
882 rendered; nonreimbursable traveling expenses incident to current



883 employment, including a reasonable amount expended for meals and
884 lodging while away from home in the pursuit of a trade or
885 business; and rentals or other payments required to be made as a
886 condition of the continued use or possession, for purposes of the
887 trade or business of property to which the taxpayer has not taken
888 or is not taking title or in which he had no equity. Expense
889 incurred in connection with earning and distributing nontaxable
890 income is not an allowable deduction. Limitations on
891 entertainment expenses shall conform to the provisions of the
892 Internal Revenue Code of 1986.

893 (b) Interest. All interest paid or accrued during the
894 taxable year on business indebtedness, except interest upon the
895 indebtedness for the purchase of tax-free bonds, or any stocks,
896 the dividends from which are nontaxable under the provisions of
897 this article; provided, however, in the case of securities
898 dealers, interest payments or accruals on loans, the proceeds of
899 which are used to purchase tax-exempt securities, shall be
900 deductible if income from otherwise tax-free securities is
901 reported as income. Investment interest expense shall be limited
902 to investment income. Interest expense incurred for the purchase
903 of treasury stock, to pay dividends, or incurred as a result of an
904 undercapitalized affiliated corporation may not be deducted unless
905 an ordinary and necessary business purpose can be established to
906 the satisfaction of the commissioner. For the purposes of this
907 paragraph, the phrase "interest upon the indebtedness for the
908 purchase of tax-free bonds" applies only to the indebtedness
909 incurred for the purpose of directly purchasing tax-free bonds and
910 does not apply to any other indebtedness incurred in the regular
911 course of the taxpayer's business. Any corporation, association,
912 organization or other entity taxable under Section 27-7-23(c)
913 shall allocate interest expense as provided in Section
914 27-7-23(c)(4)(H).



915 (c) Taxes. Taxes paid or accrued within the taxable
916 year, except state and federal income taxes, excise taxes based on
917 or measured by net income, estate and inheritance taxes, gift
918 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
919 use taxes unless incurred as an item of expense in a trade or
920 business or in the production of taxable income. In the case of
921 an individual, taxes permitted as an itemized deduction under the
922 provisions of subsection (2)(a) of this section are to be claimed
923 thereunder.

924 (d) Business losses.

925 (i) Losses sustained during the taxable year not
926 compensated for by insurance or otherwise, if incurred in trade or
927 business, or nonbusiness transactions entered into for profit.

928 (ii) Limitations on losses from passive activities
929 and rental real estate shall conform to the provisions of the
930 Internal Revenue Code of 1986.

931 (e) Bad debts. Losses from debts ascertained to be
932 worthless and charged off during the taxable year, if sustained in
933 the conduct of the regular trade or business of the taxpayer;
934 provided, that such losses shall be allowed only when the taxpayer
935 has reported as income, on the accrual basis, the amount of such
936 debt or account.

937 (f) Depreciation. A reasonable allowance for
938 exhaustion, wear and tear of property used in the trade or
939 business, or rental property, and depreciation upon buildings
940 based upon their reasonable value as of March 16, 1912, if
941 acquired prior thereto, and upon cost if acquired subsequent to
942 that date.

943 (g) Depletion. In the case of mines, oil and gas
944 wells, other natural deposits and timber, a reasonable allowance
945 for depletion and for depreciation of improvements, based upon
946 cost, including cost of development, not otherwise deducted, or
947 fair market value as of March 16, 1912, if acquired prior to that



948 date, such allowance to be made upon regulations prescribed by the
949 commissioner, with the approval of the Governor.

950 (h) Contributions or gifts. Except as otherwise
951 provided in subsection (2)(a) of this section for individuals,
952 contributions or gifts made by corporations within the taxable
953 year to corporations, organizations, associations or institutions,
954 including Community Chest funds, foundations and trusts created
955 solely and exclusively for religious, charitable, scientific or
956 educational purposes, or for the prevention of cruelty to children
957 or animals, no part of the net earnings of which inure to the
958 benefit of any private stockholder or individual. This deduction
959 shall be allowed in an amount not to exceed twenty percent (20%)
960 of the net income. Such contributions or gifts shall be allowable
961 as deductions only if verified under rules and regulations
962 prescribed by the commissioner, with the approval of the Governor.
963 Contributions made in any form other than cash shall be allowed as
964 a deduction, subject to the limitations herein provided, in an
965 amount equal to the actual market value of the contributions at
966 the time the contribution is actually made and consummated.

967 (i) Reserve funds - insurance companies. In the case
968 of insurance companies the net additions required by law to be
969 made within the taxable year to reserve funds when such reserve
970 funds are maintained for the purpose of liquidating policies at
971 maturity.

972 (j) Annuity income. The sums, other than dividends,
973 paid within the taxpayer year on policy or annuity contracts when
974 such income has been included in gross income.

975 (k) Contributions to employee pension plans.
976 Contributions made by an employer to a plan or a trust forming
977 part of a pension plan, stock bonus plan, disability or
978 death-benefit plan, or profit-sharing plan of such employer for
979 the exclusive benefit of some or all of his, their, or its
980 employees, or their beneficiaries, shall be deductible from his,



981 their, or its income only to the extent that, and for the taxable
982 year in which, the contribution is deductible for federal income
983 tax purposes under the Internal Revenue Code of 1986 and any other
984 provisions of similar purport in the Internal Revenue Laws of the
985 United States, and the rules, regulations, rulings and
986 determinations promulgated thereunder, provided that:

987 (i) The plan or trust be irrevocable.

988 (ii) The plan or trust constitute a part of a
989 pension plan, stock bonus plan, disability or death-benefit plan,
990 or profit-sharing plan for the exclusive benefit of some or all of
991 the employer's employees and/or officers, or their beneficiaries,
992 for the purpose of distributing the corpus and income of the plan
993 or trust to such employees and/or officers, or their
994 beneficiaries.

995 (iii) No part of the corpus or income of the plan
996 or trust can be used for purposes other than for the exclusive
997 benefit of employees and/or officers, or their beneficiaries.

998 Contributions to all plans or to all trusts of real or
999 personal property (or real and personal property combined) or to
1000 insured plans created under a retirement plan for which provision
1001 has been made under the laws of the United States of America,
1002 making such contributions deductible from income for federal
1003 income tax purposes, shall be deductible only to the same extent
1004 under the Income Tax Laws of the State of Mississippi.

1005 (1) Net operating loss carrybacks and carryovers. A
1006 net operating loss for any taxable year ending after December 31,
1007 1993, and taxable years thereafter, shall be a net operating loss
1008 carryback to each of the three (3) taxable years preceding the
1009 taxable year of the loss. If the net operating loss for any
1010 taxable year is not exhausted by carrybacks to the three (3)
1011 taxable years preceding the taxable year of the loss, then there
1012 shall be a net operating loss carryover to each of the fifteen



1013 (15) taxable years following the taxable year of the loss
1014 beginning with any taxable year after December 31, 1991.

1015 For any taxable year ending after December 31, 1997, the
1016 period for net operating loss carrybacks and net operating loss
1017 carryovers shall be the same as those established by the Internal
1018 Revenue Code and the rules, regulations, rulings and
1019 determinations promulgated thereunder.

1020 The term "net operating loss," for the purposes of this
1021 paragraph, shall be the excess of the deductions allowed over the
1022 gross income; provided, however, the following deductions shall
1023 not be allowed in computing same:

1024 (i) No net operating loss deduction shall be
1025 allowed.

1026 (ii) No personal exemption deduction shall be
1027 allowed.

1028 (iii) Allowable deductions which are not
1029 attributable to taxpayer's trade or business shall be allowed only
1030 to the extent of the amount of gross income not derived from such
1031 trade or business.

1032 Any taxpayer entitled to a carryback period as provided by
1033 this paragraph may elect to relinquish the entire carryback period
1034 with respect to a net operating loss for any taxable year ending
1035 after December 31, 1991. The election shall be made in the manner
1036 prescribed by the State Tax Commission and shall be made by the
1037 due date, including extensions of time, for filing the taxpayer's
1038 return for the taxable year of the net operating loss for which
1039 the election is to be in effect. The election, once made for any
1040 taxable year, shall be irrevocable for that taxable year.

1041 (m) Amortization of pollution or environmental control
1042 facilities. Allowance of deduction. Every taxpayer, at his
1043 election, shall be entitled to a deduction for pollution or
1044 environmental control facilities to the same extent as that



1045 allowed under the Internal Revenue Code and the rules,
1046 regulations, rulings and determinations promulgated thereunder.

1047 (n) Dividend distributions - real estate investment
1048 trusts. "Real estate investment trust" (hereinafter referred to
1049 as REIT) shall have the meaning ascribed to such term in Section
1050 856 of the federal Internal Revenue Code of 1986, as amended. A
1051 REIT is allowed a dividend distributed deduction if the dividend
1052 distributions meet the requirements of Section 857 or are
1053 otherwise deductible under Section 858 or 860, federal Internal
1054 Revenue Code of 1986, as amended. In addition:

1055 (i) A dividend distributed deduction shall only be
1056 allowed for dividends paid by a publicly traded REIT. A qualified
1057 REIT subsidiary shall be allowed a dividend distributed deduction
1058 if its owner is a publicly traded REIT.

1059 (ii) Income generated from real estate contributed
1060 or sold to a REIT by a shareholder or related party shall not give
1061 rise to a dividend distributed deduction, unless the shareholder
1062 or related party would have received the dividend distributed
1063 deduction under this chapter.

1064 (iii) A holding corporation receiving a dividend
1065 from a REIT shall not be allowed the deduction in Section
1066 27-7-15(4)(s).

1067 (iv) Any REIT not allowed the dividend distributed
1068 deduction in the federal Internal Revenue Code of 1986, as
1069 amended, shall not be allowed a dividend distributed deduction
1070 under this chapter.

1071 The commissioner is authorized to promulgate rules and
1072 regulations consistent with the provisions in Section 269 of the
1073 federal Internal Revenue Code of 1986, as amended, so as to
1074 prevent the evasion or avoidance of state income tax.

1075 (o) Contributions to college savings trust fund
1076 accounts. Contributions or payments to a Mississippi Affordable
1077 College Savings Program account are deductible as provided under



1078 Section 37-155-113. Payments made under a prepaid tuition
1079 contract entered into under the Mississippi Prepaid Affordable
1080 College Tuition Program are deductible as provided under Section
1081 37-155-17.

1082 (2) **Individual nonbusiness deductions.**

1083 (a) The amount allowable for individual nonbusiness
1084 itemized deductions for federal income tax purposes where the
1085 individual is eligible to elect, for the taxable year, to itemize
1086 deductions on his federal return except the following:

- 1087 (i) The deduction for state income taxes paid;
- 1088 (ii) The deduction for gaming losses from gaming
1089 establishments licensed under the Mississippi Gaming Control Act;
- 1090 (iii) The deduction for taxes collected by
1091 licensed gaming establishments pursuant to Section 27-7-901.

1092 (b) In lieu of the individual nonbusiness itemized
1093 deductions authorized in paragraph (a), for all purposes other
1094 than ordinary and necessary expenses paid or incurred during the
1095 taxable year in carrying on any trade or business, an optional
1096 standard deduction of:

1097 (i) Three Thousand Four Hundred Dollars
1098 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
1099 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
1100 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
1101 in the case of married individuals filing a joint or combined
1102 return;

1103 (ii) One Thousand Seven Hundred Dollars
1104 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
1105 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
1106 Three Hundred Dollars (\$2,300.00) for each calendar year
1107 thereafter in the case of married individuals filing separate
1108 returns;

1109 (iii) Three Thousand Four Hundred Dollars
1110 (\$3,400.00) in the case of a head of family; or



1111 (iv) Two Thousand Three Hundred Dollars
1112 (\$2,300.00) in the case of an individual who is not married.

1113 In the case of a husband and wife living together, having
1114 separate incomes, and filing combined returns, the standard
1115 deduction authorized may be divided in any manner they choose. In
1116 the case of separate returns by a husband and wife, the standard
1117 deduction shall not be allowed to either if the taxable income of
1118 one of the spouses is determined without regard to the standard
1119 deduction.

1120 (c) A nonresident individual shall be allowed the same
1121 individual nonbusiness deductions as are authorized for resident
1122 individuals in paragraph (a) or (b) of this subsection; however,
1123 the nonresident individual is entitled only to that proportion of
1124 the individual nonbusiness deductions as his net income from
1125 sources within the State of Mississippi bears to his total or
1126 entire net income from all sources.

1127 (3) Nothing in this section shall permit the same item to be
1128 deducted more than once, either in fact or in effect.

1129 **SECTION 3.** Nothing in this act shall affect or defeat any
1130 claim, assessment, appeal, suit, right or cause of action for
1131 taxes due or accrued under the income tax laws before the date on
1132 which this act becomes effective, whether such claims,
1133 assessments, appeals, suits or actions have been begun before the
1134 date on which this act becomes effective or are begun thereafter;
1135 and the provisions of the income tax laws are expressly continued
1136 in full force, effect and operation for the purpose of the
1137 assessment, collection and enrollment of liens for any taxes due
1138 or accrued and the execution of any warrant under such laws before
1139 the date on which this act becomes effective, and for the
1140 imposition of any penalties, forfeitures or claims for failure to
1141 comply with such laws.

1142 **SECTION 4.** This act shall take effect and be in force from
1143 and after January 1, 2002.

