

By: Representative Rotenberry

To: Ways and Means

HOUSE BILL NO. 794

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO
 2 INCREASE THE AMOUNT OF COMPENSATION RECEIVED BY A COMMISSIONED
 3 OFFICER IN THE ARMED FORCES FOR SERVICE IN A COMBAT ZONE OR WHILE
 4 HOSPITALIZED AS A RESULT OF WOUNDS, DISEASE OR INJURY INCURRED
 5 WHILE SERVING IN A COMBAT ZONE THAT IS EXCLUDED FROM THE MEANING
 6 OF "GROSS INCOME" FOR PURPOSES OF THE STATE INCOME TAX LAW; TO
 7 PROVIDE THAT A PORTION OF THE COMPENSATION RECEIVED BY A
 8 COMMISSIONED OFFICER IN THE ARMED FORCES FOR SERVICE IN A
 9 QUALIFIED HAZARDOUS DUTY AREA OR WHILE HOSPITALIZED AS A RESULT OF
 10 WOUNDS, DISEASE OR INJURY INCURRED WHILE SERVING IN A QUALIFIED
 11 HAZARDOUS DUTY AREA SHALL BE EXCLUDED FROM THE MEANING OF "GROSS
 12 INCOME" FOR PURPOSES OF THE STATE INCOME TAX LAW; AND FOR RELATED
 13 PURPOSES.

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

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

17 **[From and after January 1, 2002, through June 30, 2003, this**
 18 **section shall read as follows:]**

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



33 which received by the taxpayer. The amount by which an eligible
34 employee's salary is reduced pursuant to a salary reduction
35 agreement authorized under Section 25-17-5 shall be excluded from
36 the term "gross income" within the meaning of this article.

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

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

44 (b) Casual sales of property.

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

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



66 the income reported in the year the payment is made. Except as
67 otherwise provided in subparagraph (iii) of this paragraph (b),
68 deferring the payment of the tax shall not affect the liability
69 for the tax. If at any time the installment note is sold,
70 contributed, transferred or disposed of in any manner and for any
71 purpose by the original note holder, or the original note holder
72 is merged, liquidated, dissolved or withdrawn from this state,
73 then all deferred tax payments under this section shall
74 immediately become due and payable.

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

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

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



98 exchanges or payment for services, or require consolidated returns
99 of affiliates.

100 (e) Alimony and separate maintenance payments. The
101 federal rules, regulations and revenue procedures in determining
102 the deductibility and taxability of alimony payments shall be
103 followed in this state.

104 (f) Reimbursement for expenses of moving. There shall
105 be included in gross income (as compensation for services) any
106 amount received or accrued, directly or indirectly, by an
107 individual as a payment for or reimbursement of expenses of moving
108 from one residence to another residence which is attributable to
109 employment or self-employment.

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

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

115 (a) The proceeds of life insurance policies and
116 contracts paid upon the death of the insured. However, the income
117 from the proceeds of such policies or contracts shall be included
118 in the gross income.

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

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

126 (d) Interest upon the obligations of the United States
127 or its possessions, or securities issued under the provisions of
128 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
129 War Finance Corporation, or obligations of the State of
130 Mississippi or political subdivisions thereof.



131 (e) The amounts received through accident or health
132 insurance as compensation for personal injuries or sickness, plus
133 the amount of any damages received for such injuries or such
134 sickness or injuries, or through the War Risk Insurance Act, or
135 any law for the benefit or relief of injured or disabled members
136 of the military or naval forces of the United States.

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

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

151 (h) In case of insurance companies, there shall be
152 excluded from gross income such portion of actual premiums
153 received from an individual policyholder as is paid back or
154 credited to or treated as an abatement of premiums of such
155 policyholder within the taxable year.

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

160 (j) Amounts paid by the United States to a person as
161 added compensation for hazardous duty pay as a member of the Armed
162 Forces of the United States in a combat zone designated by
163 Executive Order of the President of the United States.



164 (k) Amounts received as retirement allowances,
165 pensions, annuities or optional retirement allowances paid under
166 the federal Social Security Act, the Railroad Retirement Act, the
167 Federal Civil Service Retirement Act, or any other retirement
168 system of the United States government, retirement allowances paid
169 under the Mississippi Public Employees' Retirement System,
170 Mississippi Highway Safety Patrol Retirement System or any other
171 retirement system of the State of Mississippi or any political
172 subdivision thereof. The exemption allowed under this paragraph
173 (k) shall be available to the spouse or other beneficiary at the
174 death of the primary retiree.

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

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

191 (n) Compensation received for active service as a
192 member below the grade of commissioned officer and so much of the
193 compensation as does not exceed the maximum enlisted amount
194 received for active service as a commissioned officer in the Armed
195 Forces of the United States for any month during any part of which
196 such members of the Armed Forces (i) served in a combat zone as



197 designated by Executive Order of the President of the United
198 States or a qualified hazardous duty area as defined by federal
199 law, or both; or (ii) was hospitalized as a result of wounds,
200 disease or injury incurred while serving in such combat zone or
201 qualified hazardous duty area, or both. For the purposes of this
202 paragraph (n), the term "maximum enlisted amount" means and has
203 the same definition as that term has in 26 USCS 112.

204 (o) The proceeds received from federal and state
205 forestry incentives programs.

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

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

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

227 (s) Amounts paid by the Mississippi Soil and Water
228 Conservation Commission from the Mississippi Soil and Water



229 Cost-Share Program for the installation of water quality best
230 management practices.

231 (t) Dividends received by a holding corporation, as
232 defined in Section 27-13-1, from a subsidiary corporation, as
233 defined in Section 27-13-1.

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

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

243 (w) Income resulting from transactions with a related
244 member where the related member subject to tax under this chapter
245 was required to, and did in fact, add back the expense of such
246 transactions as required by Section 27-7-17(2). Under no
247 circumstances may the exclusion from income exceed the deduction
248 add-back of the related member, nor shall the exclusion apply to
249 any income otherwise excluded under this chapter.

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

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

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

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



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

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

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

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

287 (f) "Employee" means one who is a citizen or national
288 of the United States or an alien admitted to the United States for
289 permanent residence and is a resident of the State of Mississippi
290 and is employed in or under a federal executive agency or
291 department of the Armed Forces.

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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



359 exchanges or payment for services, or require consolidated returns
360 of affiliates.

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

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

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

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

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

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

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

387 (d) Interest upon the obligations of the United States
388 or its possessions, or securities issued under the provisions of
389 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
390 War Finance Corporation, or obligations of the State of
391 Mississippi or political subdivisions thereof.



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

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

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

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

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

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



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

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

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

452 (n) Compensation received for active service as a
453 member below the grade of commissioned officer and so much of the
454 compensation as does not exceed the maximum enlisted amount
455 received for active service as a commissioned officer in the Armed
456 Forces of the United States for any month during any part of which
457 such members of the Armed Forces (i) served in a combat zone as



458 designated by Executive Order of the President of the United
459 States or a qualified hazardous duty area as defined by federal
460 law, or both; or (ii) was hospitalized as a result of wounds,
461 disease or injury incurred while serving in such combat zone or
462 qualified hazardous duty area, or both. For the purposes of this
463 paragraph (n), the term "maximum enlisted amount" means and has
464 the same definition as that term has in 26 USCS 112.

465 (o) The proceeds received from federal and state
466 forestry incentives programs.

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

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

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

488 (s) Amounts paid by the Mississippi Soil and Water
489 Conservation Commission from the Mississippi Soil and Water



490 Cost-Share Program for the installation of water quality best
491 management practices.

492 (t) Dividends received by a holding corporation, as
493 defined in Section 27-13-1, from a subsidiary corporation, as
494 defined in Section 27-13-1.

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

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

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

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

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

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

518 (c) Period of conflict. For the purpose of this
519 subsection, the Vietnam Conflict began February 28, 1961, and ends
520 on the date designated by the President by Executive Order as the
521 date of the termination of combatant activities in Vietnam. For
522 the purpose of this subsection, an individual is in a missing



523 status as a result of the Vietnam Conflict if immediately before
524 such status began he was performing service in Vietnam or was
525 performing service in Southeast Asia in direct support of military
526 operations in Vietnam. "Southeast Asia" as used in this paragraph
527 is defined to include Cambodia, Laos, Thailand and waters adjacent
528 thereto.

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

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

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

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

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



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

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

559 (6) A shareholder of an S corporation, as defined in Section
560 27-8-3(1)(g), shall take into account the income, loss, deduction
561 or credit of the S corporation only to the extent provided in
562 Section 27-8-7(2).

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

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

