

By: Representatives Rogers, Weathersby

To: Ways and Means

HOUSE BILL NO. 1687

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO
2 INCREASE THE AMOUNT OF COMPENSATION RECEIVED BY A MEMBER OF THE
3 NATIONAL GUARD OR RESERVE FORCES OF THE UNITED STATES AS PAYMENT
4 FOR INACTIVE DUTY TRAINING, ACTIVE DUTY TRAINING AND STATE ACTIVE
5 DUTY, THAT IS EXEMPT FROM TAXATION UNDER THE STATE INCOME TAX LAW
6 FORM \$5,000.00 TO \$7,500.00; 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 (j) Amounts paid by the United States to a person as
154 added compensation for hazardous duty pay as a member of the Armed
155 Forces of the United States in a combat zone designated by
156 Executive Order of the President of the United States.

157 (k) Amounts received as retirement allowances,
158 pensions, annuities or optional retirement allowances paid under
159 the federal Social Security Act, the Railroad Retirement Act, the
160 Federal Civil Service Retirement Act, or any other retirement



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

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

179 (m) Compensation not to exceed the aggregate sum of
180 Seven Thousand Five Hundred Dollars (\$7,500.00) for any taxable
181 year received by a member of the National Guard or Reserve Forces
182 of the United States as payment for inactive duty training, active
183 duty training and state active duty.

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



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

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

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

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

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

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

224 (u) Interest, dividends, gains or income of any kind on
225 any account in the Mississippi Affordable College Savings Trust
226 Fund, as established in Sections 37-155-101 through 37-155-125, to



227 the extent that such amounts remain on deposit in the MACS Trust
228 Fund or are withdrawn pursuant to a qualified withdrawal, as
229 defined in Section 37-155-105.

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

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

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

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

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

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

254 (c) Period of conflict. For the purpose of this
255 subsection, the Vietnam Conflict began February 28, 1961, and ends
256 on the date designated by the President by Executive Order as the
257 date of the termination of combatant activities in Vietnam. For
258 the purpose of this subsection, an individual is in a missing
259 status as a result of the Vietnam Conflict if immediately before



260 such status began he was performing service in Vietnam or was
261 performing service in Southeast Asia in direct support of military
262 operations in Vietnam. "Southeast Asia" as used in this paragraph
263 is defined to include Cambodia, Laos, Thailand and waters adjacent
264 thereto.

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

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

277 (f) "Employee" means one who is a citizen or national
278 of the United States or an alien admitted to the United States for
279 permanent residence and is a resident of the State of Mississippi
280 and is employed in or under a federal executive agency or
281 department of the Armed Forces.

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

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



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

295 (6) A shareholder of an S corporation, as defined in Section
296 27-8-3(1)(g), shall take into account the income, loss, deduction
297 or credit of the S corporation only to the extent provided in
298 Section 27-8-7(2).

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

301 27-7-15. (1) For the purposes of this article, except as
302 otherwise provided, the term "gross income" means and includes the
303 income of a taxpayer derived from salaries, wages, fees or
304 compensation for service, of whatever kind and in whatever form
305 paid, including income from governmental agencies and subdivisions
306 thereof; or from professions, vocations, trades, businesses,
307 commerce or sales, or renting or dealing in property, or
308 reacquired property; also from annuities, interest, rents,
309 dividends, securities, insurance premiums, reinsurance premiums,
310 considerations for supplemental insurance contracts, or the
311 transaction of any business carried on for gain or profit, or
312 gains, or profits, and income derived from any source whatever and
313 in whatever form paid. The amount of all such items of income
314 shall be included in the gross income for the taxable year in
315 which received by the taxpayer. The amount by which an eligible
316 employee's salary is reduced pursuant to a salary reduction
317 agreement authorized under Section 25-17-5 shall be excluded from
318 the term "gross income" within the meaning of this article.

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

322 (a) Dealers in property. Federal rules, regulations
323 and revenue procedures shall be followed with respect to
324 installment sales.



325 (b) Casual sales of property. Federal rules,
326 regulations and revenue procedures shall be followed with respect
327 to installment sales.

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

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

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

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

351 (e) Alimony and separate maintenance payments. The
352 federal rules, regulations and revenue procedures in determining
353 the deductibility and taxability of alimony payments shall be
354 followed in this state.

355 (f) Reimbursement for expenses of moving. There shall
356 be included in gross income (as compensation for services) any
357 amount received or accrued, directly or indirectly, by an



358 individual as a payment for or reimbursement of expenses of moving
359 from one residence to another residence which is attributable to
360 employment or self-employment.

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

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

366 (a) The proceeds of life insurance policies and
367 contracts paid upon the death of the insured. However, the income
368 from the proceeds of such policies or contracts shall be included
369 in the gross income.

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

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

377 (d) Interest upon the obligations of the United States
378 or its possessions, or securities issued under the provisions of
379 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
380 War Finance Corporation, or obligations of the State of
381 Mississippi or political subdivisions thereof.

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

388 (f) Income received by any religious denomination or by
389 any institution or trust for moral or mental improvements,
390 religious, Bible, tract, charitable, benevolent, fraternal,



391 missionary, hospital, infirmary, educational, scientific,
392 literary, library, patriotic, historical or cemetery purposes or
393 for two (2) or more of such purposes, if such income be used
394 exclusively for carrying out one or more of such purposes.

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

402 (h) In case of insurance companies, there shall be
403 excluded from gross income such portion of actual premiums
404 received from an individual policyholder as is paid back or
405 credited to or treated as an abatement of premiums of such
406 policyholder within the taxable year.

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

411 (j) Amounts paid by the United States to a person as
412 added compensation for hazardous duty pay as a member of the Armed
413 Forces of the United States in a combat zone designated by
414 Executive Order of the President of the United States.

415 (k) Amounts received as retirement allowances,
416 pensions, annuities or optional retirement allowances paid under
417 the federal Social Security Act, the Railroad Retirement Act, the
418 Federal Civil Service Retirement Act, or any other retirement
419 system of the United States government, retirement allowances paid
420 under the Mississippi Public Employees' Retirement System,
421 Mississippi Highway Safety Patrol Retirement System or any other
422 retirement system of the State of Mississippi or any political
423 subdivision thereof. The exemption allowed under this paragraph



424 (k) shall be available to the spouse or other beneficiary at the
425 death of the primary retiree.

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

437 (m) Compensation not to exceed the aggregate sum of
438 Seven Thousand Five Hundred Dollars (\$7,500.00) for any taxable
439 year received by a member of the National Guard or Reserve Forces
440 of the United States as payment for inactive duty training, active
441 duty training and state active duty.

442 (n) Compensation received for active service as a
443 member below the grade of commissioned officer and so much of the
444 compensation as does not exceed the aggregate sum of Five Hundred
445 Dollars (\$500.00) per month received for active service as a
446 commissioned officer in the Armed Forces of the United States for
447 any month during any part of which such members of the Armed
448 Forces (i) served in a combat zone as designated by Executive
449 Order of the President of the United States; or (ii) was
450 hospitalized as a result of wounds, disease or injury incurred
451 while serving in such combat zone.

452 (o) The proceeds received from federal and state
453 forestry incentives programs.

454 (p) The amount representing the difference between the
455 increase of gross income derived from sales for export outside the
456 United States as compared to the preceding tax year wherein gross



457 income from export sales was highest, and the net increase in
458 expenses attributable to such increased exports. In the absence
459 of direct accounting the ratio of net profits to total sales may
460 be applied to the increase in export sales. This paragraph (p)
461 shall only apply to businesses located in this state engaging in
462 the international export of Mississippi goods and services. Such
463 goods or services shall have at least fifty percent (50%) of value
464 added at a location in Mississippi.

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

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

475 (s) Amounts paid by the Mississippi Soil and Water
476 Conservation Commission from the Mississippi Soil and Water
477 Cost-Share Program for the installation of water quality best
478 management practices.

479 (t) Dividends received by a holding corporation, as
480 defined in Section 27-13-1, from a subsidiary corporation, as
481 defined in Section 27-13-1.

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



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

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

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

495 (a) Members of the Armed Forces. Gross income does not
496 include compensation received for active service as a member of
497 the Armed Forces of the United States for any month during any
498 part of which such member is in a missing status, as defined in
499 paragraph (d) of this subsection, during the Vietnam Conflict as a
500 result of such conflict.

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

505 (c) Period of conflict. For the purpose of this
506 subsection, the Vietnam Conflict began February 28, 1961, and ends
507 on the date designated by the President by Executive Order as the
508 date of the termination of combatant activities in Vietnam. For
509 the purpose of this subsection, an individual is in a missing
510 status as a result of the Vietnam Conflict if immediately before
511 such status began he was performing service in Vietnam or was
512 performing service in Southeast Asia in direct support of military
513 operations in Vietnam. "Southeast Asia" as used in this paragraph
514 is defined to include Cambodia, Laos, Thailand and waters adjacent
515 thereto.

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



521 force; or (v) detained in a foreign country against his will; but
522 does not include the status of an employee or member of the Armed
523 Forces 0for a period during which he is officially determined to
524 be absent from his post of duty without authority.

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

528 (f) "Employee" means one who is a citizen or national
529 of the United States or an alien admitted to the United States for
530 permanent residence and is a resident of the State of Mississippi
531 and is employed in or under a federal executive agency or
532 department of the Armed Forces.

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

537 (h) If refund or credit of any overpayment of tax for
538 any taxable year resulting from the application of subsection (5)
539 of this section is prevented by the operation of any law or rule
540 of law, such refund or credit of such overpayment of tax may,
541 nevertheless, be made or allowed if claim therefor is filed with
542 the State Tax Commission within three (3) years after the date of
543 the enactment of this subsection.

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

546 (6) A shareholder of an S corporation, as defined in Section
547 27-8-3(1)(g), shall take into account the income, loss, deduction
548 or credit of the S corporation only to the extent provided in
549 Section 27-8-7(2).

550 **SECTION 2.** Nothing in this act shall affect or defeat any
551 claim, assessment, appeal, suit, right or cause of action for
552 taxes due or accrued under the income tax laws before the date on
553 which this act becomes effective, whether such claims,



554 assessments, appeals, suits or actions have been begun before the
555 date on which this act becomes effective or are begun thereafter;
556 and the provisions of the income tax laws are expressly continued
557 in full force, effect and operation for the purpose of the
558 assessment, collection and enrollment of liens for any taxes due
559 or accrued and the execution of any warrant under such laws before
560 the date on which this act becomes effective, and for the
561 imposition of any penalties, forfeitures or claims for failure to
562 comply with such laws.

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

