

By: Representative Fleming

To: Ways and Means

HOUSE BILL NO. 183

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO
2 EXCLUDE OVERTIME COMPENSATION FROM THE DEFINITION OF "GROSS
3 INCOME" FOR PURPOSES OF THE STATE INCOME TAX LAW; AND FOR RELATED
4 PURPOSES.

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

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

8 [Through June 30, 2003, this section shall read as follows:]

9 27-7-15. (1) For the purposes of this article, except as
10 otherwise provided, the term "gross income" means and includes the
11 income of a taxpayer derived from salaries, wages, fees or
12 compensation for service, of whatever kind and in whatever form
13 paid, including income from governmental agencies and subdivisions
14 thereof; or from professions, vocations, trades, businesses,
15 commerce or sales, or renting or dealing in property, or
16 reacquired property; also from annuities, interest, rents,
17 dividends, securities, insurance premiums, reinsurance premiums,
18 considerations for supplemental insurance contracts, or the
19 transaction of any business carried on for gain or profit, or
20 gains, or profits, and income derived from any source whatever and
21 in whatever form paid. The amount of all such items of income
22 shall be included in the gross income for the taxable year in
23 which received by the taxpayer. The amount by which an eligible
24 employee's salary is reduced pursuant to a salary reduction
25 agreement authorized under Section 25-17-5 shall be excluded from
26 the term "gross income" within the meaning of this article.



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

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

34 (b) **Casual sales of property.**

35 (i) Prior to January 1, 2001, federal rules,
36 regulations and revenue procedures shall be followed with respect
37 to installment sales except they shall be applied and administered
38 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
39 106th Congress, had not been enacted. This provision will
40 generally affect taxpayers, reporting on the accrual method of
41 accounting, entering into installment note agreements on or after
42 December 17, 1999. Any gain or profit resulting from the casual
43 sale of property will be recognized in the year of sale.

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



60 purpose by the original note holder, or the original note holder
61 is merged, liquidated, dissolved or withdrawn from this state,
62 then all deferred tax payments under this section shall
63 immediately become due and payable.

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

75 (c) **Reserves of insurance companies.** In the case of
76 insurance companies, any amounts in excess of the legally required
77 reserves shall be included as gross income.

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

89 (e) **Alimony and separate maintenance payments.** The
90 federal rules, regulations and revenue procedures in determining
91 the deductibility and taxability of alimony payments shall be
92 followed in this state.



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

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

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

104 (a) The proceeds of life insurance policies and
105 contracts paid upon the death of the insured. However, the income
106 from the proceeds of such policies or contracts shall be included
107 in the gross income.

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

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

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

120 (e) The amounts received through accident or health
121 insurance as compensation for personal injuries or sickness, plus
122 the amount of any damages received for such injuries or such
123 sickness or injuries, or through the War Risk Insurance Act, or
124 any law for the benefit or relief of injured or disabled members
125 of the military or naval forces of the United States.



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

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

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

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

149 (j) Amounts paid by the United States to a person as
150 added compensation for hazardous duty pay as a member of the Armed
151 Forces of the United States in a combat zone designated by
152 Executive Order of the President of the United States.

153 (k) Amounts received as retirement allowances,
154 pensions, annuities or optional retirement allowances paid under
155 the federal Social Security Act, the Railroad Retirement Act, the
156 Federal Civil Service Retirement Act, or any other retirement
157 system of the United States government, retirement allowances paid
158 under the Mississippi Public Employees' Retirement System,



159 Mississippi Highway Safety Patrol Retirement System or any other
160 retirement system of the State of Mississippi or any political
161 subdivision thereof. The exemption allowed under this paragraph
162 (k) shall be available to the spouse or other beneficiary at the
163 death of the primary retiree.

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

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

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

190 (o) The proceeds received from federal and state
191 forestry incentives programs.



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

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

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

213 (s) Amounts paid by the Mississippi Soil and Water
214 Conservation Commission from the Mississippi Soil and Water
215 Cost-Share Program for the installation of water quality best
216 management practices.

217 (t) Dividends received by a holding corporation, as
218 defined in Section 27-13-1, from a subsidiary corporation, as
219 defined in Section 27-13-1.

220 (u) Interest, dividends, gains or income of any kind on
221 any account in the Mississippi Affordable College Savings Trust
222 Fund, as established in Sections 37-155-101 through 37-155-125, to
223 the extent that such amounts remain on deposit in the MACS Trust



224 Fund or are withdrawn pursuant to a qualified withdrawal, as
225 defined in Section 37-155-105.

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

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

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

239 (y) Amounts that are subject to the tax levied pursuant
240 to Section 27-7-903, and are paid to patrons by gaming
241 establishments not licensed under the Mississippi Gaming Control
242 Act.

243 (z) Amounts received as overtime compensation required
244 by the Fair Labor Standards Act of 1938 (29 USCS Section 201 et
245 seq.), as amended.

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

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

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



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

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

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

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

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



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

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

298 (6) A shareholder of an S corporation, as defined in Section
299 27-8-3(1)(g), shall take into account the income, loss, deduction
300 or credit of the S corporation only to the extent provided in
301 Section 27-8-7(2).

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



387 the amount of any damages received for such injuries or such
388 sickness or injuries, or through the War Risk Insurance Act, or
389 any law for the benefit or relief of injured or disabled members
390 of the military or naval forces of the United States.

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

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

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

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

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

418 (k) Amounts received as retirement allowances,
419 pensions, annuities or optional retirement allowances paid under



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

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

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

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



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

455 (o) The proceeds received from federal and state
456 forestry incentives programs.

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

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

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

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

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



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

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

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

497 (x) Amounts that are subject to the tax levied pursuant
498 to Section 27-7-903, and are paid to patrons by gaming
499 establishments not licensed under the Mississippi Gaming Control
500 Act.

501 (y) Amounts received as overtime compensation required
502 by the Fair Labor Standards Act of 1938 (29 USCS Section 201 et
503 seq.), as amended.

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

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

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

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



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

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

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

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

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

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



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

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

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

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

573 **SECTION 3.** This act shall take effect and be in force from
574 and after January 1, 2003.

