

By: Representatives Rotenberry, Eakes

To: Ways and Means

HOUSE BILL NO. 587

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

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



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

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

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

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

44 (i) Prior to January 1, 2001, federal rules,
45 regulations and revenue procedures shall be followed with respect
46 to installment sales except they shall be applied and administered
47 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
48 106th Congress, had not been enacted. This provision will
49 generally affect taxpayers, reporting on the accrual method of
50 accounting, entering into installment note agreements on or after
51 December 17, 1999. Any gain or profit resulting from the casual
52 sale of property will be recognized in the year of sale.

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



66 deferring the payment of the tax shall not affect the liability
67 for the tax. If at any time the installment note is sold,
68 contributed, transferred or disposed of in any manner and for any
69 purpose by the original note holder, or the original note holder
70 is merged, liquidated, dissolved or withdrawn from this state,
71 then all deferred tax payments under this section shall
72 immediately become due and payable.

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

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

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



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

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

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

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

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

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

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

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

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



131 the amount of any damages received for such injuries or such
132 sickness or injuries, or through the War Risk Insurance Act, or
133 any law for the benefit or relief of injured or disabled members
134 of the military or naval forces of the United States.

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

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

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

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

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

162 (k) Amounts received as retirement allowances,
163 pensions, annuities or optional retirement allowances paid under



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

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

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

189 (n) Compensation received for active service as a
190 member below the grade of commissioned officer and so much of the
191 compensation as does not exceed the maximum enlisted amount
192 received for active service as a commissioned officer in the Armed
193 Forces of the United States for any month during any part of which
194 such members of the Armed Forces (i) served in a combat zone as
195 designated by Executive Order of the President of the United
196 States or a qualified hazardous duty area as defined by federal



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

202 (o) The proceeds received from federal and state
203 forestry incentives programs.

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

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

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

225 (s) Amounts paid by the Mississippi Soil and Water
226 Conservation Commission from the Mississippi Soil and Water
227 Cost-Share Program for the installation of water quality best
228 management practices.



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

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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



360 determining the true value of the gross income, gross sales,
361 exchanges or payment for services, or require consolidated returns
362 of affiliates.

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

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

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

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

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

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

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

389 (d) Interest upon the obligations of the United States
390 or its possessions, or securities issued under the provisions of
391 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the



392 War Finance Corporation, or obligations of the State of
393 Mississippi or political subdivisions thereof.

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

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

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

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

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

423 (j) Amounts paid by the United States to a person as
424 added compensation for hazardous duty pay as a member of the Armed



425 Forces of the United States in a combat zone designated by
426 Executive Order of the President of the United States.

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

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

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

454 (n) Compensation received for active service as a
455 member below the grade of commissioned officer and so much of the
456 compensation as does not exceed the maximum enlisted amount
457 received for active service as a commissioned officer in the Armed



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

467 (o) The proceeds received from federal and state
468 forestry incentives programs.

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

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

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



490 (s) Amounts paid by the Mississippi Soil and Water
491 Conservation Commission from the Mississippi Soil and Water
492 Cost-Share Program for the installation of water quality best
493 management practices.

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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

