

By: Representative Zuber

To: Ways and Means

HOUSE BILL NO. 815

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE DEFINITION OF THE TERM "GROSS INCOME" FOR PURPOSES OF
 3 THE STATE INCOME TAX LAW TO EXCLUDE COMPENSATION RECEIVED BY A
 4 RESIDENT OF THIS STATE FOR ACTIVE FEDERAL SERVICE AS A MEMBER OF
 5 THE ARMED FORCES OF THE UNITED STATES IN AN ACTIVE DUTY STATUS
 6 WHILE SUCH PERSON IS STATIONED OUTSIDE THE STATE OF MISSISSIPPI;
 7 AND FOR RELATED PURPOSES.

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

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

11 **[Through June 30, 2003, this section shall read as 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 H.R. 3594, the Installment Tax Correction Act of 2000 of the
42 106th Congress, had not been enacted. This provision will
43 generally affect taxpayers, reporting on the accrual method of
44 accounting, entering into installment note agreements on or after
45 December 17, 1999. Any gain or profit resulting from the casual
46 sale of property will be recognized in the year of sale.

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



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64 is merged, liquidated, dissolved or withdrawn from this state,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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

246 (z) Compensation received by a resident for active
247 federal service as a member of the Armed Forces of the United
248 States in an active duty status while such person is stationed
249 outside the State of Mississippi pursuant to military orders.

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

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

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



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

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

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

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

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

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



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

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

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

302 (6) A shareholder of an S corporation, as defined in Section
303 27-8-3(1)(g), shall take into account the income, loss, deduction
304 or credit of the S corporation only to the extent provided in
305 Section 27-8-7(2).

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

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



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

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

329 (a) **Dealers in property.** Federal rules, regulations
330 and revenue procedures shall be followed with respect to
331 installment sales.

332 (b) **Casual sales of property.** Federal rules,
333 regulations and revenue procedures shall be followed with respect
334 to installment sales.

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

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

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

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



356 exchanges or payment for services, or require consolidated returns
357 of affiliates.

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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

449 (n) Compensation received for active service as a
450 member below the grade of commissioned officer and so much of the
451 compensation as does not exceed the aggregate sum of Five Hundred
452 Dollars (\$500.00) per month received for active service as a
453 commissioned officer in the Armed Forces of the United States for
454 any month during any part of which such members of the Armed



455 Forces (i) served in a combat zone as designated by Executive
456 Order of the President of the United States; or (ii) was
457 hospitalized as a result of wounds, disease or injury incurred
458 while serving in such combat zone.

459 (o) The proceeds received from federal and state
460 forestry incentives programs.

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

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

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

482 (s) Amounts paid by the Mississippi Soil and Water
483 Conservation Commission from the Mississippi Soil and Water
484 Cost-Share Program for the installation of water quality best
485 management practices.



486 (t) Dividends received by a holding corporation, as
487 defined in Section 27-13-1, from a subsidiary corporation, as
488 defined in Section 27-13-1.

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

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

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

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

505 (y) Compensation received by a resident for active
506 federal service as a member of the Armed Forces of the United
507 States in an active duty status while such person is stationed
508 outside the State of Mississippi pursuant to military orders.

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

