HOUSE BILL NO. 1563

1   AN ACT TO AMEND SECTION 27-7-20, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT NET CASUALTY LOSS DEDUCTIONS MAY BE CARRIED BACK MORE
3 THAN THREE YEARS IF OTHERWISE PROVIDED UNDER THE INTERNAL REVENUE
4 CODE; TO AMEND SECTION 27-7-49, MISSISSIPPI CODE OF 1972, TO
5 PROVIDE THAT THE THREE-YEAR EXAMINATION PERIOD FOR STATE INCOME
6 TAX RETURNS SHALL NOT APPLY WHERE THE REPORTABLE TAXABLE INCOME OF
7 A TAXPAYER HAS BEEN DECREASED BY THE CARRYBACK OF A NET CASUALTY
8 LOSS DEDUCTION OR NET OPERATING LOSS DEDUCTION INSOFAR AS THE
9 STATE INCOME TAX LIABILITY IS AFFECTED BY THE CARRYBACK OF THE
10 APPLICABLE DEDUCTION; AND FOR RELATED PURPOSES.

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

12   **SECTION 1.** Section 27-7-20, Mississippi Code of 1972, is

13 amended as follows:

14   27-7-20. Casualty losses of individuals shall be computed

15 and allowed in accordance with the provisions of the Internal

16 Revenue Code, rules, regulations and revenue procedures relating

17 to casualty and theft losses and disaster losses not in direct

18 conflict with the provisions of the Mississippi Income Tax Law.

19   The State Tax Commission shall apply a special rule with

20 respect to any loss attributable to a disaster occurring in an

21 area subsequently determined by the President of the United States

22 to warrant assistance by the federal government under the Disaster

23 Relief Act of 1974. In lieu of the net operating loss carryover

24 provision, a "net casualty loss" deduction may result when

25 itemized deductions, including the original casualty loss, exceed

26 gross income. The "net casualty loss" shall be computed with the

27 following modifications:

28   (a) No other net casualty loss deduction shall be

29 allowed.

30   (b) No net operating loss deduction shall be allowed.

31   (c) No deduction for personal and additional exemptions
32   shall be allowed.

33   (d) Allowable deductions which are not attributable to
34   a taxpayer's trade or business shall be allowed only to the extent
35   of the amount of the gross income not derived from such trade or
36   business.

37   The "net casualty loss" is allowed as a deduction from gross
38   income and may be carried back to each of the three (3) years
39   preceding the tax year in which the original casualty loss is
40   claimed or as otherwise provided under the Internal Revenue Code.
41   If the net casualty loss deduction is not exhausted within the
42   three (3) preceding years or as otherwise provided under the
43   Internal Revenue Code, any net casualty loss remaining shall be
44   carried over to each of the seven (7) years following the tax year
45   in which the original casualty loss is claimed. In determining
46   the amount of any net casualty loss carryback or carryover to any
47   tax year, the necessary computations involving any other tax year
48   shall be made under the law applicable to such other tax year.

49   **SECTION 2.** Section 27-7-49, Mississippi Code of 1972, is
50   amended as follows:

51   27-7-49. (1) Returns shall be examined by the commissioner
52   or his duly authorized agents within three (3) years from the due
53   date or the date the return was filed, whichever is later, and no
54   determination of a tax overpayment or deficiency shall be made by
55   the commissioner, and no suit shall be filed with respect to
56   income within the period covered by such return, after the
57   expiration of said three-year period, except as hereinafter
58   provided.

59   (2) When an examination of a return made under this article
60   has been commenced, and the taxpayer notified thereof, either by
61   certified mail or personal delivery by an agent of the
62   commissioner, within the three-year examination period provided in
63   subsection (1) of this section, the determination of the correct

64 tax liability may be made by the commissioner after the expiration

65 of said three-year examination period, provided that said

66 determination shall be made with reasonable promptness and

67 diligence.

68   (3) Where the reported taxable income of a taxpayer has been

69 increased or decreased by the Internal Revenue Service, the

70 three-year examination period provided in subsection (1) of this

71 section shall not be applicable, insofar as the Mississippi income

72 tax liability is affected by the specific changes made by said

73 Internal Revenue Service. However, no additional assessment or no

74 refund shall be made under the provisions of this article after

75 three (3) years from the date the Internal Revenue Service

76 disposes of the tax liability in question.

77   (4) The three-year examination period provided in subsection

78 (1) of this section shall not be applicable in the case of a false

79 or fraudulent return with intent to evade tax.

80   (5) A taxpayer may apply to the commissioner for revision of

81 any return filed under this article at any time within three (3)

82 years from the due date, or if an extension of time to file was

83 granted, three (3) years from the date the return was filed. If

84 the return is not filed by the time authorized by the extension,

85 then the three (3) years begin to run from the final day of the

86 extension period.

87   (6) Where the reportable taxable income of a taxpayer has

88 been decreased by the carryback of a net casualty loss deduction

89 under Section 27-7-20 or the carryback of a net operating loss

90 deduction under Section 27-7-17, the three-year examination period

91 provided under subsection (1) of this section shall not be

92 applicable insofar as the Mississippi income tax liability is

93 affected by the carryback of the net casualty loss deduction or

94 the carryback of the net operating loss deduction.

95   **SECTION 3.** This act shall take effect and be in force from

96 and after January 1, 2007.

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PAGE 3 (BS\BD)   ST: Income tax; revise period for which net
                 casualty losses may be carried back as
                 deductions.