

By: Representatives McBride, Akins, Gadd,
Reynolds

To: Ways and Means

HOUSE BILL NO. 1585
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-7-9, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT NO GAIN OR LOSS SHALL BE RECOGNIZED UNDER THE STATE
3 INCOME TAX LAWS ON CERTAIN EXCHANGES OF PROPERTY IF NO GAIN OR
4 LOSS IS RECOGNIZED WITH REGARD TO SUCH EXCHANGES UNDER THE
5 INTERNAL REVENUE CODE AND THAT NO GAIN SHALL BE RECOGNIZED ON
6 PROPERTY THAT IS COMPULSORILY OR INVOLUNTARILY CONVERTED IF NO
7 GAIN IS RECOGNIZED WITH REGARD TO SUCH PROPERTY UNDER THE INTERNAL
8 REVENUE CODE; TO CONFORM THE STATE INCOME TAX LAW WITH FEDERAL LAW
9 REGARDING THE PERIOD FOR NONRECOGNITION OF GAIN ON THE REPLACEMENT
10 OF DAMAGED PROPERTY IN THE HURRICANE KATRINA DISASTER AREA AS
11 PROVIDED FOR IN THE KATRINA EMERGENCY TAX RELIEF ACT OF 2005; AND
12 FOR RELATED PURPOSES.

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

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

16 27-7-9. (a) **Except as provided in Sections 27-7-95 through**
17 **27-7-103, determination of amount of gain or loss.**

18 (1) **Computation of gain or loss.** The gain from the
19 sale or other disposition of property shall be the excess of the
20 amount realized therefrom over the adjusted basis provided in
21 subsection (c) for determining gain, and the loss shall be the
22 excess of the adjusted basis provided in subsection (c) for
23 determining loss over the amount realized.

24 (2) **Amount realized.** The amount realized from the sale
25 or other disposition of property shall be the sum of any money
26 received plus the fair market value of the property (other than
27 money) received.

28 (3) **Installment sales.** Nothing in this section shall
29 be construed to prevent (in the case of property sold under
30 contract providing for payment in installments) the taxation of
31 that portion of any installment payment representing gain or
32 profit in the year in which such payment is received.

33 (b) **Recognition of gain or loss.** Except as otherwise
34 provided in this section, on the sale or exchange of property the
35 entire amount of the gain or loss, determined under subsection
36 (a), shall be recognized.

37 (c) **Adjusted basis for determining gain or loss.**

38 (1) **In general.** The adjusted basis for determining the
39 gain or loss from the sale or other disposition of property,
40 whenever acquired, shall be the basis determined under subsection
41 (d) adjusted as provided in subsection (e).

42 (2) **Bargain sale to a charitable organization.** If a
43 deduction is allowed under Section 27-7-17 (relating to charitable
44 contributions) by reason of a sale, then the adjusted basis for
45 determining the gain from such sale shall be that portion of the
46 adjusted basis which bears the same ratio to the adjusted basis as
47 the amount realized bears to the fair market value of the
48 property.

49 (d) **Basis of property.**

50 (1) **Property acquired after March 16, 1912.** The basis
51 for ascertaining the gain derived or the loss sustained from the
52 sale or other disposition of property, real, personal or mixed,
53 shall be, in the case of property acquired after March 16, 1912,
54 the cost of such property, except as otherwise provided in this
55 subsection.

56 (2) **Inventory property.** If the property should have
57 been included in the last inventory, the basis shall be the last
58 inventory value thereof.

59 (3) **Property acquired by gift.** In the case of property
60 acquired by gift after January 1, 1936, the basis shall be the
61 same as that which it would have in the hands of the donor or the
62 last preceding owner by whom it was not acquired by gift. If the
63 facts necessary to determine such basis are unknown to the donee,
64 the commissioner shall, if possible, obtain such facts from such
65 donor, or last preceding owner, or any other person cognizant

66 thereof. If the commissioner finds it impossible to obtain such
67 facts, the commissioner shall establish a basis for the property
68 from the best information available. In the case of property
69 acquired by gift on or before January 1, 1936, the basis for
70 ascertaining gain or loss from the sale or other disposition
71 thereof shall be the fair market price or value of such property
72 at the time of acquisition.

73 (4) **Property acquired by bequests, devises and**
74 **inheritance.** If personal property was acquired by specific
75 bequest, or if real property was acquired by general or specific
76 devise or by intestacy, the basis shall be the fair market value
77 of the property at the time of the death of the decedent. If the
78 property was acquired by the decedent's estate from the decedent,
79 the basis in the hands of the estate shall be the fair market
80 value of the property at the time of the death of the decedent.
81 In all other cases, if the property was acquired either by will or
82 by intestacy, the basis shall be the fair market value of the
83 property at the time of the distribution to the taxpayer. In the
84 case of property transferred in trust to pay the income for life
85 to or upon the order or direction of the grantor, with the right
86 reserved to the grantor at all times prior to his death to revoke
87 the trust, the basis of such property in the hands of the persons
88 entitled under the terms of the trust instrument to the property
89 after the grantor's death shall, after such death, be the same as
90 if the trust instrument had been a will executed on the day of the
91 grantor's death.

92 (5) **Property acquired by a transfer in trust.** If the
93 property was acquired by a transfer in trust (other than by a
94 transfer in trust by a bequest or devise), the basis shall be the
95 same as it would be in the hands of the grantor, increased in the
96 amount of gain, or decreased in the amount of loss, recognized to
97 the grantor upon such transfer under this section.

98 (6) **Property acquired in tax-free exchanges.** If the
99 property was acquired upon an exchange described in subsection
100 (f), the basis shall be the same as in the case of the property
101 exchanged, decreased in the amount of any money received by the
102 taxpayer and increased in the amount of gain or decreased in the
103 amount of loss to the taxpayer that was recognized upon such
104 exchange by the terms of this act. If the property so acquired
105 consisted in part of the type of property permitted by subsection
106 (f) to be received without recognition of gain or loss, and in
107 part of other property, the basis provided in this subsection
108 shall be allocated between the properties (other than money)
109 received, and for the purpose of the allocation there shall be
110 assigned to such other property an amount equivalent to its fair
111 market value at the date of the exchange.

112 (7) **Property acquired in tax-free distribution.** If the
113 property consists of stock or securities distributed to a taxpayer
114 in connection with a transaction described in subsection (f), the
115 basis in the case of the stock in respect of which the
116 distribution was made shall be apportioned, under rules and
117 regulations prescribed by the commissioner, between such stock and
118 the stock or securities distributed.

119 (8) **Property acquired in involuntary conversions.** If
120 the property was acquired as the result of a compulsory or
121 involuntary conversion described in subsection (f), the basis
122 shall be the same as in the case of property so converted,
123 decreased in the amount of any money received by the taxpayer
124 which was not expended in accordance with the provisions of said
125 subsection determining the taxable status of the gain or loss upon
126 such conversion, and increased in the amount of gain or decreased
127 in the amount of loss to the taxpayer recognized upon such
128 conversion.

129 (9) **Property acquired in wash sales.** If substantially
130 identical property was acquired in place of stock or securities

131 which were sold or disposed of and in respect of which loss was
132 not allowed as a deduction under Section 27-7-17(d), the basis in
133 the case of property so acquired shall be the basis in the case of
134 the stock or securities so sold or disposed of, except that, if
135 the repurchase price was in excess of the sales price, such basis
136 shall be increased in the amount of the difference, or if the
137 repurchase price was less than the sales price, such basis shall
138 be decreased in the amount of the difference.

139 (10) **Property acquired before March 16, 1912.** The
140 basis for determining the gain or loss from the sale or other
141 disposition of property acquired before March 16, 1912, shall be:

142 (A) The cost of such property (or in the case of
143 such property as is described in subsection (d)(2) or (4) of this
144 section the basis as therein provided, or in the case of property
145 acquired by gift or transfer in trust, the fair market value of
146 such property at the time of such acquisition); or

147 (B) The fair market value of such property as of
148 March 16, 1912, whichever is greater.

149 In determining the fair market value of stock in a
150 corporation as of March 16, 1912, due regard shall be given to the
151 fair market value of the assets of the corporation as of that
152 date.

153 (e) **Adjustments to basis.**

154 (1) **In general.** In computing the amount of gain or
155 loss from the sale or other disposition of property, proper
156 adjustment shall be made for any expenditure, receipt, loss or
157 other item, properly chargeable to capital account since the basis
158 date. The cost or other basis of the property shall also be
159 diminished by the amount of the deductions for exhaustion, wear
160 and tear, obsolescence, amortization and depletion, which have
161 since the acquisition of the property been allowable in respect of
162 such property whether or not such deductions were claimed by the
163 taxpayer or formerly allowed. In the case of stock, the basis

164 shall be diminished by the amount of distributions previously made
165 in respect to such stock, to the extent provided under this
166 section.

167 (2) **Substituted basis.** Whenever it appears that the
168 basis of the property in the hands of a taxpayer is a substituted
169 basis, then the adjustments provided in subsection (e)(1) shall be
170 made after first making in respect of such substituted basis
171 proper adjustments of a similar nature in respect of the period
172 during which the property was held by the transferor, donor or
173 grantor, or during which the other property was held by the person
174 for whom the basis is to be determined. The term "substituted
175 basis" as used in this subsection means a basis determined under
176 any provision of this section or under any corresponding provision
177 of a prior Income Tax Law, providing that the basis shall be
178 determined by reference to the basis in the hands of a transferor,
179 donor or grantor, or, by reference to other property held at any
180 time by the person for whom the basis is to be determined.

181 (f) **Recognition of gain or loss -- exceptions.**

182 (1) **Exchange solely in kind.**

183 (A) **Property held for productive use or**
184 **investment.** No gain or loss shall be recognized if property held
185 for productive use in trade or business or for investment (not
186 including stock in trade or other property held primarily for
187 sale, nor stocks, bonds, notes, choses in action, certificates of
188 trust or beneficial interest, or other securities or evidence of
189 indebtedness or interest) is exchanged solely for property of a
190 like kind to be held either for productive use in trade or
191 business or for investment. In addition, no gain or loss shall be
192 recognized on any exchange of property if no gain or loss is
193 recognized with regard to such exchange under Section 1031 of the
194 Internal Revenue Code.

195 (B) **Stock for stock in same corporation.** No gain
196 or loss shall be recognized if common stock in a corporation is

197 exchanged solely for common stock in the same corporation, or if
198 preferred stock in a corporation is exchanged solely for preferred
199 stock in the same corporation.

200 (C) **Transfers to corporation controlled by**
201 **transferor.** No gain or loss shall be recognized if property is
202 transferred to a corporation by one or more persons solely in
203 exchange for stock or securities in such corporation, and if
204 immediately after the exchange such person or persons are in
205 control of the corporation; but in the case of an exchange by two
206 (2) or more persons, this subsection shall apply only if the
207 amount of the stock and securities received by each is
208 substantially in proportion to his interest in the property prior
209 to the exchange.

210 (D) **Stock for stock on reorganization.** No gain or
211 loss shall be recognized if stock or securities in a corporation,
212 a party to a reorganization, are, in pursuance of the plan of
213 reorganization, exchanged solely for stock or securities in such
214 corporation or in another corporation, a party to a
215 reorganization.

216 (2) **Gain from exchanges not solely in kind.** If an
217 exchange would be within the provisions of subsection (f)(1) of
218 this section, if it were not for the fact that the property
219 received in exchange consists not only of property permitted by
220 subsection (f)(1) to be received without the recognition of gain,
221 but also of other property or money, then the gain, if any, to the
222 recipient shall be recognized, but in an amount not in excess of
223 the sum of such money and the fair market value of such other
224 property so received.

225 (3) **Loss from exchanges not solely in kind.** If an
226 exchange would be within the provisions of subsection (f)(1) of
227 this section, if it were not for the fact that the property
228 received in exchange consists not only of property permitted by
229 subsection (f)(1) to be received without the recognition of gain

230 or loss but also of other property or money, then no loss from the
231 exchange shall be recognized.

232 (4) **Distribution of stock on reorganization.** If in
233 pursuance of a plan of reorganization, there is distributed to a
234 shareholder in a corporation, a party to the reorganization, stock
235 or securities in such corporation or in another corporation, a
236 party to the reorganization, without the surrender by such
237 shareholder of stock or securities in such corporation, no gain to
238 the distributee from the receipt of such stock or securities shall
239 be recognized.

240 (5) **Distribution with effect of taxable dividend.** If a
241 distribution made in pursuance of a plan of reorganization is
242 within the provisions of subsection (f)(4) of this section, but
243 has the effect of the distribution of a taxable dividend, then
244 there shall be taxed as a dividend to each distributee such an
245 amount of the gain recognized under subsection (f)(2) as is not in
246 excess of his ratable share of the undistributed earnings and
247 profits of the corporation. The remainder, if any, of the gain
248 recognized under subsection (f)(2) shall be taxed as a gain from
249 the exchange of property.

250 (6) **Involuntary conversions.** If property, as a result
251 of its destruction in whole or in part, theft, seizure or
252 requisition or condemnation, or threat or imminence thereof, is
253 compulsorily or involuntarily converted:

254 (A) Into property similar or related in service or
255 use to the property so converted, no gain shall be recognized, but
256 loss shall be recognized;

257 (B) Into money, no gain shall be recognized if
258 such money is expended, within a period ending two (2) years after
259 the close of the first taxable year in which any part of the gain
260 upon the conversion is realized, in the acquisition of other
261 property similar or related in service or use to the property so
262 converted, or in the acquisition of control of a corporation

263 owning such other property, or in the establishment of a
264 replacement fund, but loss shall be recognized. Such two-year
265 period shall be extended to five (5) years with respect to
266 property in the Hurricane Katrina disaster area, as defined in the
267 Katrina Emergency Tax Relief Act of 2005, which is compulsorily or
268 involuntarily converted on or after August 29, 2005, by reason of
269 Hurricane Katrina, but only if substantially all of the use of the
270 replacement property is in such area. If any part of the money is
271 not so expended, the gain shall be recognized to the extent of the
272 money which is not so expended, regardless of whether such money
273 is received in one or more taxable years and regardless of whether
274 or not the money which is not so expended constitutes gain.
275 Provided, gain realized on property which is compulsorily or
276 involuntarily converted for public use under Title II, Chapter 27,
277 Mississippi Code of 1972, or any federal law relating to the
278 involuntary conversion of property for public use shall not be
279 recognized. Provided further, that gain realized on property
280 which is voluntarily converted for public use shall not be
281 recognized after it becomes evident that eminent domain
282 proceedings are probable.

283 Except as otherwise provided, the provisions of this
284 subsection relating to the nonrecognition of gain, including the
285 exception provided in subparagraph (B), shall apply only to an
286 owner of the converted property who has held title to such
287 property for a period at least three (3) years prior to the date
288 of the disposition of the converted property, provided that an
289 owner who acquired such property by bequest, devise, gift or
290 inheritance shall be excluded from this limitation, if the
291 preceding owner acquired title to such property at least three (3)
292 years prior to the date of disposition. However, no gain shall be
293 recognized on property that is compulsorily or involuntarily
294 converted if no gain is recognized with regard to such property
295 under Section 1033 of the Internal Revenue Code.

296 (7) **Property exchanged treated as equivalent of cash.**

297 When property other than property specified in subsection
298 (f)(1)(A) of this section is exchanged for other property, the
299 property received in exchange shall, for the purpose of
300 determining gain or loss, be treated as the equivalent of cash to
301 the amount of its fair market value.

302 (8) **Distribution of assets of corporation.** The
303 distribution to the taxpayer of the assets of a corporation shall
304 be treated as a sale of the stock or securities of the corporation
305 owned by him, and the gain or loss shall be computed accordingly.

306 (9) **Organization of a corporation.** In the case of the
307 organization of a corporation, the stock and securities received
308 shall be considered to take the place of property transferred
309 therefor, and no gain or loss shall be deemed to arise therefrom.

310 (10) **Sales of certain interests in financial**
311 **institutions domiciled in Mississippi, domestic corporations,**
312 **domestic limited partnerships or domestic limited liability**
313 **companies.** No gain shall be recognized from the sale of
314 authorized shares in financial institutions domiciled in
315 Mississippi and domestic corporations, or partnership interests in
316 domestic limited partnerships and domestic limited liability
317 companies, that have been held for more than one (1) year;
318 however, any gain that would otherwise be excluded by this
319 provision shall first be applied against, and reduced by, any
320 losses determined from sales or transactions described by this
321 provision if the losses were incurred in the year of the gain or
322 within the two (2) years preceding or subsequent to the gain.

323 (g) **Reorganization defined.** The term "reorganization"
324 means:

325 (1) A statutory merger or consolidation;

326 (2) The acquisition by one (1) corporation, in exchange
327 solely for all or a part of its voting stock (or in exchange
328 solely for all or a part of the voting stock of a corporation

329 which is in control of the acquiring corporation), of stock of
330 another corporation if, immediately after the acquisition, the
331 acquiring corporation has control of such other corporation, or of
332 substantially all the properties of another corporation;

333 (3) A transfer by a corporation of all or a part of its
334 assets to another corporation if immediately after the transfer
335 the transferor, or one or more of its shareholders (including
336 persons who were shareholders immediately before the transfer), or
337 any combination thereof, is in control of the corporation to which
338 the assets are transferred;

339 (4) A recapitalization; or

340 (5) A mere change in identity, form or place of
341 organization, however effected.

342 (h) **Party to a reorganization defined.** The term "a party to
343 a reorganization" includes a corporation resulting from a
344 reorganization and includes both corporations in the case of an
345 acquisition by one (1) corporation of at least a majority of the
346 voting stock and at least a majority of the total number of shares
347 of all other classes of stock of another corporation.

348 (i) **Control defined.** As used in this section, the term
349 "control" means the ownership of at least eighty percent (80%) of
350 the voting stock and at least eighty percent (80%) of the total
351 number of shares of all other classes of stock of the corporation.

352 (j) **Special rules.**

353 (1) **Liquidation of subsidiaries.** A transfer to a
354 parent corporation from its subsidiary of property distributed in
355 complete liquidation of the subsidiary shall result in no
356 recognized gain or loss if the basis of the property in the hands
357 of the parent corporation is the same as it was in the hands of
358 the subsidiary.

359 (2) **Gain or loss on sales or exchanges in connection**
360 **with certain liquidations.** Corporations adopting a plan of
361 complete liquidation under the provisions of the Internal Revenue

362 Code shall recognize the gain or loss from the sale or exchange of
363 property by the corporation under said plan. The total gain or
364 loss from the liquidating distributions shall be recognized by the
365 shareholders; however, a credit for the tax paid by the
366 liquidating corporation on the gain from the sale or exchange of
367 property under the plan of liquidation will be allowed to the
368 extent of any tax liability to the shareholders. The corporation
369 shall provide to the State Tax Commission a list of all
370 shareholders with their percentage of ownership, distribution, tax
371 credit allowed and any other information requested.

372 (3) **Distribution of stock and securities of a**
373 **controlled corporation.** No gain shall be recognized on a
374 distribution to a stockholder of a corporation if such gain would
375 not be recognized to such stockholder for federal income tax
376 purposes under the provisions of Section 355 of the federal
377 Internal Revenue Code.

378 (4) Notwithstanding the other provisions of this
379 section, a corporation or other entity that is involved in
380 restructuring, reorganizing, distributing assets or profits, or
381 changing ownership that results in an adjustment to its asset
382 basis is required to report a gain in the year such transaction
383 occurs on any such transaction when the transaction involves
384 assets owned or used in this state, or otherwise represents assets
385 owned or used in this state. If a transfer of income or a change
386 in asset valuation occurs on the tax records of the taxpayer, such
387 transaction shall result in taxation to this state to the extent
388 of the transfer of income or change in asset valuation.

389 (5) If a corporation or other entity makes an Internal
390 Revenue Code Section 338 election, or other similar election under
391 which the aggregate basis in assets are increased on the tax
392 records of the taxpayer, then a similar election must also be made
393 for Mississippi purposes, but the gain must be recognized by the
394 corporation in which the increase in basis of the assets occurs.

395 The corporation or other entity is allowed to increase its basis
396 by the amount of gain recognized. An aggregate write-down of
397 assets is not allowed. The parent corporation shall recognize the
398 gain on the disposition of its stock.

399 (6) For state tax purposes, a corporation or other
400 legal entity is considered separate from its shareholders,
401 affiliated corporations or other entities. If a corporation or
402 other legal entity enters into any transaction that is for the
403 benefit of its shareholders or for the benefit of an affiliated
404 corporation without an equal mutual business benefit of the
405 corporation, then, the transaction will be adjusted or eliminated
406 to arrive at taxable income to this state. All transactions
407 entered into by a corporation must be at "arms-length." If
408 requested by the commissioner, the taxpayer must be able to
409 substantiate that the transaction occurred at "arms-length." If
410 not, the transaction may be adjusted to the satisfaction of the
411 commissioner. In determining whether the transaction occurred at
412 arms-length, the commissioner shall consider the following:

413 (A) Whether the transaction is in compliance with
414 the federal regulations promulgated under Internal Revenue Code
415 Section 482;

416 (B) Whether the transaction was done for a valid
417 business purpose;

418 (C) Whether the income being shifted by the
419 transaction is subject to a tax in another state;

420 (D) Whether the transaction is consistent with the
421 results that would have been realized if uncontrolled taxpayers
422 had engaged in the same transaction under the same circumstances;
423 and

424 (E) Other factors which support the conclusion
425 that income is being shifted to avoid the tax imposed by this
426 chapter.

427 (k) **Sale or exchange of residence.**

428 (1) **Loss on sale or exchange of residence.** Loss from
429 the sale or exchange of property used by the taxpayer as his
430 principal residence is not recognized and cannot be deducted.

431 (2) **Nonrecognition of gain.** Gain shall be computed in
432 accordance with the provisions of the Internal Revenue Code,
433 rules, regulations and revenue procedures relating to the sale or
434 exchange of a personal residence not in direct conflict with the
435 provisions of the Mississippi Income Tax Law.

436 (3) **Gain on the sale or exchange of residence.** A
437 recognizable gain on the sale or exchange of a personal residence
438 shall be included in gross income and treated as ordinary income.

439 (1) **Distributions by corporations.**

440 (1) Distributions of the property of a corporation,
441 including partial and complete liquidations, shall be recognized
442 by the distributing corporation and the gain or loss shall be
443 computed on the difference of the fair market value of the assets
444 distributed and their basis. The total gain or loss from the
445 distributions to the shareholders shall be recognized by the
446 shareholders subject to subsections (f)(8) and (j)(1); however, a
447 credit for the tax paid by the distributing corporation on the
448 gain from the sale or exchange of property under the plan of
449 distribution will be allowed to the extent of any liability to the
450 shareholders. The corporation shall provide to the State Tax
451 Commission a list of all shareholders with their percentage of
452 ownership, distribution, tax credit allowed and any other
453 information requested.

454 (2) **Source of distributions.** For the purposes of this
455 act, every distribution is made out of earnings or profits to the
456 extent thereof, and from the most recently accumulated earnings
457 and profits. Any earnings or profit accumulated, or increase in
458 value of property acquired, before March 16, 1912, may be
459 distributed exempt from tax (after the earnings and profits
460 accumulated after March 16, 1912, have been distributed), but any

461 such tax-free distribution shall be applied against and reduce the
462 basis of the stock provided in subsection (d).

463 (3) **Distributions in liquidation.** Amounts distributed
464 in complete liquidation of a corporation shall be treated as in
465 full payment in exchange for the stock, and amounts distributed in
466 partial liquidation of a corporation shall be treated as in part
467 or full payment in exchange for the stock. The gain or loss to
468 the distributee resulting from such exchange shall be determined
469 under subsection (a), but shall be recognized only to the extent
470 provided in subsection (f). In the case of amounts distributed in
471 partial liquidation, the part of such distribution which is
472 property chargeable to capital account shall not be considered a
473 distribution of earnings or profits within the meaning of
474 paragraph (2) of this subsection for the purpose of determining
475 the taxability of subsequent distributions by the corporations.

476 (4) **Other distributions.** If any distribution (not in
477 partial or complete liquidation) made by a corporation to its
478 shareholders, is not out of increase in value of property accrued
479 before March 16, 1912, and is not out of earnings or profits, then
480 the amount of such distribution shall be applied against and
481 reduce the basis of the stock provided in subsection (d), and if
482 in excess of such basis, such excess shall be taxable in the same
483 manner as a gain from the sale or exchange of property.

484 (5) **Stock dividends.** A stock dividend shall not be
485 subject to tax.

486 (6) **Cancellation or redemption of stock.** If a
487 corporation cancels or redeems its stock (whether or not such
488 stock was issued as a stock dividend) at such time and in such
489 manner as to make the distribution and cancellation or redemption
490 in whole or in part essentially equivalent to the distribution of
491 a taxable dividend, the amount so distributed in redemption or
492 cancellation of the stock, to the extent that it represents a

493 distribution of earnings or profits accumulated after March 16,
494 1912, shall be treated as a taxable dividend.

495 (7) **"Amounts distributed in partial liquidation"**
496 **defined.** As used in this subsection, the term "amounts
497 distributed in partial liquidation" means distribution by a
498 corporation in complete cancellation or redemption of a part of
499 its stock, or one of a series of distributions in complete
500 cancellation or redemption of all or a portion of its stock.

501 (8) **Distributions of stock pursuant to order enforcing**
502 **the Antitrust Laws.** Any distribution of stock which is made
503 pursuant to the order of any court enforcing the Antitrust Laws of
504 the United States, or of any state, shall be a distribution which
505 is not out of earnings and profits of the distributing
506 corporation, but the value of the stock so distributed shall be
507 applied against and reduce the basis of the stock of the
508 distributing corporation provided in subsection (d), and if in
509 excess of such basis, such excess shall be taxable in the same
510 manner as a gain from the sale or exchange of property.

511 **SECTION 2.** This act shall take effect and be in force from
512 and after January 1, 2007.