

By: Representative Smith

To: Ways and Means

HOUSE BILL NO. 1601

1 AN ACT TO AUTHORIZE TAXPAYERS TO ESTABLISH FIRST-TIME HOME
 2 BUYER SAVINGS ACCOUNTS; TO DEFINE CERTAIN TERMS; TO PROVIDE THAT
 3 THE AMOUNTS CONTRIBUTED TO A FIRST-TIME HOME BUYER SAVINGS
 4 ACCOUNT, INTEREST AND OTHER INCOME EARNED ON AN ACCOUNT AND
 5 DISTRIBUTIONS FROM SUCH AN ACCOUNT THAT ARE USED TO PAY ELIGIBLE
 6 COSTS RELATED TO THE PURCHASE OF A SINGLE-FAMILY RESIDENCE SHALL
 7 BE EXCLUDED FROM THE GROSS INCOME OF THE ACCOUNT HOLDER UNDER THE
 8 STATE INCOME TAX LAW; TO AMEND SECTION 27-7-15, MISSISSIPPI CODE
 9 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** (1) As used in Sections 1 and 2 of this act, the
 12 following words shall have the meanings ascribed herein unless the
 13 context clearly requires otherwise:

14 (a) "Account holder" means an individual who
 15 establishes, individually or jointly with one or more other
 16 individuals, an account with a financial institution for which the
 17 account holder claims a first-time home buyer savings account
 18 status on his Mississippi income tax return.

19 (b) "Allowable closing costs" means a disbursement
 20 listed on a settlement statement for the purchase of a
 21 single-family residence in this state by a qualified beneficiary.



22 (c) "Eligible costs" means the down payment and
23 allowable closing costs for the purchase of a single-family
24 residence in this state by a qualified beneficiary.

25 (d) "Financial institution" means any bank, trust
26 company, savings institution, consumer finance company, credit
27 union, safe deposit company, money market mutual fund, or similar
28 entity authorized to do business in this state.

29 (e) "First-time home buyer savings account" or
30 "account" means an account with a financial institution for which
31 the account holder claims first-time home buyer savings account
32 status on his Mississippi income tax return for taxable year 2018
33 or any taxable year thereafter, pursuant to Sections 1 and 2 of
34 this act for the purpose of paying or reimbursing eligible costs
35 for the purchase of a single-family residence in this state by a
36 qualified beneficiary.

37 (f) "Qualified beneficiary" means an individual or
38 individuals who reside in this state at the time of settlement on
39 the purchase of a single-family residence in this state and:

40 (i) Have never owned or purchased under contract
41 for deed, either individually or jointly, a single-family
42 residence in this state or outside of this state;

43 (ii) Are designated as the beneficiary of an
44 account designated by the account holder as a first-time home
45 buyer savings account; and



46 (iii) May apply monies or funds held in such
47 account for eligible costs. A qualified beneficiary may use the
48 funds from such account for eligible costs regardless of whether
49 such qualified beneficiary purchases the single-family residence
50 as sole owner or jointly with another individual.

51 (g) "Settlement statement" means the statement of
52 receipts and disbursements for a transaction related to real
53 estate, including a statement prescribed under the Real Estate
54 Settlement Procedures Act of 1974 (RESPA), 12 USCS Section 2601 et
55 seq., as amended, and the regulations thereunder, or an executed
56 sales agreement for the purchase of a manufactured home being
57 conveyed as personal property.

58 (h) "Single-family residence" means a single-family
59 residence owned and occupied by a qualified beneficiary, and also
60 includes a manufactured home, trailer, mobile home, condominium
61 unit, or cooperative.

62 (i) "State" means the State of Mississippi.

63 **SECTION 2.** (1) (a) An account holder shall be responsible
64 for the use or application of monies or funds in an account for
65 which the account holder claims first-time home buyer savings
66 account status.

67 (b) An account holder shall:

68 (i) Not use monies or funds held in an account to
69 pay expenses of administering the account, except that a service
70 fee may be deducted from the account by a financial institution;



71 (ii) Maintain documentation of the segregation of
72 monies or funds in separate accounts and documentation of eligible
73 costs for the purchase of a single-family residence in this state
74 (such documentation may include the settlement statement); and

75 (iii) File with the account holder's Mississippi
76 income tax return forms developed by the Department of Revenue
77 regarding treatment of the account as a first-time home buyer
78 savings account under Sections 1 and 2 of this act, along with the
79 federal Form 1099 issued by the financial institution for such
80 account.

81 (2) (a) Except as otherwise provided in Sections 1 and 2 of
82 this act and Section 27-7-15, amounts contributed to and all
83 interest or other income earned attributable to an account and
84 monies or funds withdrawn or distributed from an account for the
85 payment of eligible costs by or on behalf of a qualified
86 beneficiary shall be excluded from the gross income of the account
87 holder as provided under Section 27-7-15.

88 (b) (i) The amount of contributions made by an account
89 holder in any tax year to a first-time home buyer savings account
90 to be excluded from gross income as provided under Section 27-7-15
91 shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00) for
92 any account holder who files an individual return.

93 (ii) The amount of contributions made by an
94 account holder in any tax year to a first-time home buyer savings
95 account to be excluded from gross income as provided under Section



96 27-7-15 shall not exceed Five Thousand Dollars (\$5,000.00) for any
97 married couple who are joint account holders and file a joint
98 return. Only cash and marketable securities may be contributed to
99 an account.

100 (c) Upon being furnished proof of the death of an
101 account holder, a financial institution shall distribute the
102 principal and accumulated interest or other income of the account
103 in accordance with the terms of the contract governing the
104 account.

105 (3) If monies or funds are withdrawn from an account for any
106 purpose other than the payment of eligible costs by or on behalf
107 of a qualified beneficiary, then such monies or funds withdrawn
108 from an account shall be added to gross income as provided in
109 Section 27-7-15. In addition, there shall be imposed a penalty
110 calculated using the federal Form 1099 showing the amount of
111 income exempted from state income tax and assessing a ten percent
112 (10%) penalty on the amount of such exempted income. However, the
113 penalty shall not apply to the extent of monies or funds withdrawn
114 that were (a) withdrawn by reason of the qualified beneficiary's
115 death or disability, (b) a disbursement of assets of the account
116 pursuant to a filing for protection under the United States
117 Bankruptcy Code, 11 USCS Sections 101 through 1330, or (c)
118 transferred from an account established under Sections 1 and 2 of
119 this act into another account established under Sections 1 and 2
120 of this act for the benefit of another qualified beneficiary.



121 (4) Financial institutions shall not be required to (a)
122 designate an account as a first-time home buyer savings account,
123 or designate the beneficiaries of such accounts, in the financial
124 institutions' account contracts or systems or in any other way;
125 (b) track the use of funds withdrawn from such accounts; (c)
126 allocate funds in such accounts among joint account owners or
127 multiple beneficiaries; or (d) report any of the information
128 described in (a), (b) or (c) to the Department of Revenue or other
129 governmental agency. In addition, financial institutions shall
130 not be responsible for or liable for (a) determining or ensuring
131 that an account satisfies the requirements to be a first-time home
132 buyer savings account, (b) determining or ensuring that costs are
133 eligible costs, or (c) reporting or remitting taxes or penalties
134 for such accounts.

135 (5) The Department of Revenue shall have all powers
136 necessary to implement and administer Sections 1 and 2 of this
137 act, and the department shall promulgate rules and regulations, in
138 accordance with the Mississippi Administrative Procedures Law,
139 necessary for the implementation of this section. However, such
140 guidelines shall not apply to, or impose administrative,
141 reporting, or other obligations or requirements on, financial
142 institutions-related accounts for which first-time home buyer
143 savings account status is claimed by the account holder.

144 **SECTION 3.** Section 27-7-15, Mississippi Code of 1972, is
145 amended as follows:



146 27-7-15. (1) For the purposes of this article, except as
147 otherwise provided, the term "gross income" means and includes the
148 income of a taxpayer derived from salaries, wages, fees or
149 compensation for service, of whatever kind and in whatever form
150 paid, including income from governmental agencies and subdivisions
151 thereof; or from professions, vocations, trades, businesses,
152 commerce or sales, or renting or dealing in property, or
153 reacquired property; also from annuities, interest, rents,
154 dividends, securities, insurance premiums, reinsurance premiums,
155 considerations for supplemental insurance contracts, or the
156 transaction of any business carried on for gain or profit, or
157 gains, or profits, and income derived from any source whatever and
158 in whatever form paid. The amount of all such items of income
159 shall be included in the gross income for the taxable year in
160 which received by the taxpayer. The amount by which an eligible
161 employee's salary is reduced pursuant to a salary reduction
162 agreement authorized under Section 25-17-5 shall be excluded from
163 the term "gross income" within the meaning of this article.

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

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



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

172 (i) Prior to January 1, 2001, federal rules,
173 regulations and revenue procedures shall be followed with respect
174 to installment sales except they shall be applied and administered
175 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
176 106th Congress, had not been enacted. This provision will
177 generally affect taxpayers, reporting on the accrual method of
178 accounting, entering into installment note agreements on or after
179 December 17, 1999. Any gain or profit resulting from the casual
180 sale of property will be recognized in the year of sale.

181 (ii) From and after January 1, 2001, federal
182 rules, regulations and revenue procedures shall be followed with
183 respect to installment sales except as provided in this
184 subparagraph (ii). Gain or profit from the casual sale of
185 property shall be recognized in the year of sale. When a taxpayer
186 recognizes gain on the casual sale of property in which the gain
187 is deferred for federal income tax purposes, a taxpayer may elect
188 to defer the payment of tax resulting from the gain as allowed and
189 to the extent provided under regulations prescribed by the
190 commissioner. If the payment of the tax is made on a deferred
191 basis, the tax shall be computed based on the applicable rate for
192 the income reported in the year the payment is made. Except as
193 otherwise provided in subparagraph (iii) of this paragraph (b),
194 deferring the payment of the tax shall not affect the liability
195 for the tax. If at any time the installment note is sold,



196 contributed, transferred or disposed of in any manner and for any
197 purpose by the original note holder, or the original note holder
198 is merged, liquidated, dissolved or withdrawn from this state,
199 then all deferred tax payments under this section shall
200 immediately become due and payable.

201 (iii) If the selling price of the property is
202 reduced by any alteration in the terms of an installment note,
203 including default by the purchaser, the gain to be recognized is
204 recomputed based on the adjusted selling price in the same manner
205 as for federal income tax purposes. The tax on this amount, less
206 the previously paid tax on the recognized gain, is payable over
207 the period of the remaining installments. If the tax on the
208 previously recognized gain has been paid in full to this state,
209 the return on which the payment was made may be amended for this
210 purpose only. The statute of limitations in Section 27-7-49 shall
211 not bar an amended return for this purpose.

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

215 (d) **Affiliated companies or persons.** As regards sales,
216 exchanges or payments for services from one to another of
217 affiliated companies or persons or under other circumstances where
218 the relation between the buyer and seller is such that gross
219 proceeds from the sale or the value of the exchange or the payment
220 for services are not indicative of the true value of the subject



221 matter of the sale, exchange or payment for services, the
222 commissioner shall prescribe uniform and equitable rules for
223 determining the true value of the gross income, gross sales,
224 exchanges or payment for services, or require consolidated returns
225 of affiliates.

226 (e) **Alimony and separate maintenance payments.** The
227 federal rules, regulations and revenue procedures in determining
228 the deductibility and taxability of alimony payments shall be
229 followed in this state.

230 (f) **Reimbursement for expenses of moving.** There shall
231 be included in gross income (as compensation for services) any
232 amount received or accrued, directly or indirectly, by an
233 individual as a payment for or reimbursement of expenses of moving
234 from one residence to another residence which is attributable to
235 employment or self-employment.

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

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

241 (a) The proceeds of life insurance policies and
242 contracts paid upon the death of the insured. However, the income
243 from the proceeds of such policies or contracts shall be included
244 in the gross income.



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

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

252 (d) Interest upon the obligations of the United States
253 or its possessions, or securities issued under the provisions of
254 the Federal Farm Loan Act of 1916, or bonds issued by the War
255 Finance Corporation, or obligations of the State of Mississippi or
256 political subdivisions thereof.

257 (e) The amounts received through accident or health
258 insurance as compensation for personal injuries or sickness, plus
259 the amount of any damages received for such injuries or such
260 sickness or injuries, or through the War Risk Insurance Act, or
261 any law for the benefit or relief of injured or disabled members
262 of the military or naval forces of the United States.

263 (f) Income received by any religious denomination or by
264 any institution or trust for moral or mental improvements,
265 religious, Bible, tract, charitable, benevolent, fraternal,
266 missionary, hospital, infirmary, educational, scientific,
267 literary, library, patriotic, historical or cemetery purposes or
268 for two (2) or more of such purposes, if such income be used
269 exclusively for carrying out one or more of such purposes.



270 (g) Income received by a domestic corporation which is
271 "taxable in another state" as this term is defined in this
272 article, derived from business activity conducted outside this
273 state. Domestic corporations taxable both within and without the
274 state shall determine Mississippi income on the same basis as
275 provided for foreign corporations under the provisions of this
276 article.

277 (h) In case of insurance companies, there shall be
278 excluded from gross income such portion of actual premiums
279 received from an individual policyholder as is paid back or
280 credited to or treated as an abatement of premiums of such
281 policyholder within the taxable year.

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

286 (j) Amounts paid by the United States to a person as
287 added compensation for hazardous duty pay as a member of the Armed
288 Forces of the United States in a combat zone designated by
289 Executive Order of the President of the United States.

290 (k) Amounts received as retirement allowances,
291 pensions, annuities or optional retirement allowances paid under
292 the federal Social Security Act, the Railroad Retirement Act, the
293 Federal Civil Service Retirement Act, or any other retirement
294 system of the United States government, retirement allowances paid



295 under the Mississippi Public Employees' Retirement System,
296 Mississippi Highway Safety Patrol Retirement System or any other
297 retirement system of the State of Mississippi or any political
298 subdivision thereof. The exemption allowed under this paragraph
299 (k) shall be available to the spouse or other beneficiary at the
300 death of the primary retiree.

301 (l) Amounts received as retirement allowances,
302 pensions, annuities or optional retirement allowances paid by any
303 public or governmental retirement system not designated in
304 paragraph (k) or any private retirement system or plan of which
305 the recipient was a member at any time during the period of his
306 employment. Amounts received as a distribution under a Roth
307 Individual Retirement Account shall be treated in the same manner
308 as provided under the Internal Revenue Code of 1986, as amended.
309 The exemption allowed under this paragraph (l) shall be available
310 to the spouse or other beneficiary at the death of the primary
311 retiree.

312 (m) National Guard or Reserve Forces of the United
313 States compensation not to exceed the aggregate sum of Five
314 Thousand Dollars (\$5,000.00) for any taxable year through the 2005
315 taxable year, and not to exceed the aggregate sum of Fifteen
316 Thousand Dollars (\$15,000.00) for any taxable year thereafter.

317 (n) Compensation received for active service as a
318 member below the grade of commissioned officer and so much of the
319 compensation as does not exceed the maximum enlisted amount



320 received for active service as a commissioned officer in the Armed
321 Forces of the United States for any month during any part of which
322 such members of the Armed Forces (i) served in a combat zone as
323 designated by Executive Order of the President of the United
324 States or a qualified hazardous duty area as defined by federal
325 law, or both; or (ii) was hospitalized as a result of wounds,
326 disease or injury incurred while serving in such combat zone. For
327 the purposes of this paragraph (n), the term "maximum enlisted
328 amount" means and has the same definition as that term has in 26
329 USCS 112.

330 (o) The proceeds received from federal and state
331 forestry incentive programs.

332 (p) The amount representing the difference between the
333 increase of gross income derived from sales for export outside the
334 United States as compared to the preceding tax year wherein gross
335 income from export sales was highest, and the net increase in
336 expenses attributable to such increased exports. In the absence
337 of direct accounting, the ratio of net profits to total sales may
338 be applied to the increase in export sales. This paragraph (p)
339 shall only apply to businesses located in this state engaging in
340 the international export of Mississippi goods and services. Such
341 goods or services shall have at least fifty percent (50%) of value
342 added at a location in Mississippi.



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

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

353 (s) Amounts paid by the Mississippi Soil and Water
354 Conservation Commission from the Mississippi Soil and Water
355 Cost-Share Program for the installation of water quality best
356 management practices.

357 (t) Dividends received by a holding corporation, as
358 defined in Section 27-13-1, from a subsidiary corporation, as
359 defined in Section 27-13-1.

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



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

369 (w) Income resulting from transactions with a related
370 member where the related member subject to tax under this chapter
371 was required to, and did in fact, add back the expense of such
372 transactions as required by Section 27-7-17(2). Under no
373 circumstances may the exclusion from income exceed the deduction
374 add-back of the related member, nor shall the exclusion apply to
375 any income otherwise excluded under this chapter.

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

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

383 (z) Interest, dividends, gains or income of any kind on
384 any account in a qualified tuition program and amounts received as
385 distributions under a qualified tuition program shall be treated
386 in the same manner as provided under the United States Internal
387 Revenue Code, as amended. For the purposes of this paragraph (z),
388 the term "qualified tuition program" means and has the same
389 definition as that term has in 26 USCS 529.



390 (aa) The amount deposited in a health savings account,
391 and any interest accrued thereon, that is a part of a health
392 savings account program as specified in the Health Savings
393 Accounts Act created in Sections 83-62-1 through 83-62-9; however,
394 any amount withdrawn from such account for purposes other than
395 paying qualified medical expenses or to procure health coverage
396 shall be included in gross income, except as otherwise provided by
397 Sections 83-62-7 and 83-62-9.

398 (bb) Amounts received as qualified disaster relief
399 payments shall be treated in the same manner as provided under the
400 United States Internal Revenue Code, as amended.

401 (cc) Amounts received as a "qualified Hurricane Katrina
402 distribution" as defined in the United States Internal Revenue
403 Code, as amended.

404 (dd) Amounts received by an individual which may be
405 excluded from income as foreign earned income for federal income
406 tax purposes.

407 (ee) Amounts received by a qualified individual,
408 directly or indirectly, from an employer or nonprofit housing
409 organization that are qualified housing expenses associated with
410 an employer-assisted housing program. For purposes of this
411 paragraph (ee):

412 (i) "Qualified individual" means any individual
413 whose household income does not exceed one hundred twenty percent
414 (120%) of the area median gross income (as defined by the United



415 States Department of Housing and Urban Development), adjusted for
416 household size, for the area in which the housing is located.

417 (ii) "Nonprofit housing organization" means an
418 organization that is organized as a not-for-profit organization
419 under the laws of this state or another state and has as one of
420 its purposes:

- 421 1. Homeownership education or counseling;
- 422 2. The development of affordable housing; or
- 423 3. The development or administration of
424 employer-assisted housing programs.

425 (iii) "Employer-assisted housing program" means a
426 separate written plan of any employer (including, without
427 limitation, tax-exempt organizations and public employers) for the
428 exclusive benefit of the employer's employees to pay qualified
429 housing expenses to assist the employer's employees in securing
430 affordable housing.

431 (iv) "Qualified housing expenses" means:

- 432 1. With respect to rental assistance, an
433 amount not to exceed Two Thousand Dollars (\$2,000.00) paid for the
434 purpose of assisting employees with security deposits and rental
435 subsidies; and
- 436 2. With respect to homeownership assistance,
437 an amount not to exceed the lesser of Ten Thousand Dollars
438 (\$10,000.00) or six percent (6%) of the purchase price of the
439 employee's principal residence that is paid for the purpose of



440 assisting employees with down payments, payment of closing costs,
441 reduced interest mortgages, mortgage guarantee programs, mortgage
442 forgiveness programs, equity contribution programs, or
443 contributions to home buyer education and/or homeownership
444 counseling of eligible employees.

445 (ff) For the 2010 taxable year and any taxable year
446 thereafter, amounts converted in accordance with the United States
447 Internal Revenue Code, as amended, from a traditional Individual
448 Retirement Account to a Roth Individual Retirement Account. The
449 exemption allowed under this paragraph (ff) shall be available to
450 the spouse or other beneficiary at the death of the primary
451 retiree.

452 (gg) Amounts received for the performance of disaster
453 or emergency-related work as defined in Section 27-113-5.

454 (hh) The amount deposited in a catastrophe savings
455 account established under Sections 27-7-1001 through 27-7-1007,
456 interest income earned on the catastrophe savings account, and
457 distributions from the catastrophe savings account; however, any
458 amount withdrawn from a catastrophe savings account for purposes
459 other than paying qualified catastrophe expenses shall be included
460 in gross income, except as otherwise provided by Sections
461 27-7-1001 through 27-7-1007.

462 (ii) Subject to the limitations provided under Section
463 2 of this act, amounts deposited into a first-time home buyer
464 savings account and any interest or other income earned



465 attributable to an account and monies or funds withdrawn or
466 distributed from an account for the payment of eligible costs by
467 or on behalf of a qualified beneficiary; however, any monies or
468 funds withdrawn or distributed from a first-time home buyer
469 savings account for any purpose other than the payment of eligible
470 costs by or on behalf of a qualified beneficiary shall be included
471 in gross income. For the purpose of this paragraph (ii), the
472 terms "first-time home buyer savings account," "eligible costs"
473 and "qualified beneficiary" mean and have the same definitions as
474 such terms have in Section 1 of this act.

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

476 (a) **Members of the Armed Forces.** Gross income does not
477 include compensation received for active service as a member of
478 the Armed Forces of the United States for any month during any
479 part of which such member is in a missing status, as defined in
480 paragraph (d) of this subsection, during the Vietnam Conflict as a
481 result of such conflict.

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

486 (c) **Period of conflict.** For the purpose of this
487 subsection, the Vietnam Conflict began February 28, 1961, and ends
488 on the date designated by the President by Executive Order as the
489 date of the termination of combatant activities in Vietnam. For



490 the purpose of this subsection, an individual is in a missing
491 status as a result of the Vietnam Conflict if immediately before
492 such status began he was performing service in Vietnam or was
493 performing service in Southeast Asia in direct support of military
494 operations in Vietnam. "Southeast Asia," as used in this
495 paragraph, is defined to include Cambodia, Laos, Thailand and
496 waters adjacent thereto.

497 (d) "Missing status" means the status of an employee or
498 member of the Armed Forces who is in active service and is
499 officially carried or determined to be absent in a status of (i)
500 missing; (ii) missing in action; (iii) interned in a foreign
501 country; (iv) captured, beleaguered or besieged by a hostile
502 force; or (v) detained in a foreign country against his will; but
503 does not include the status of an employee or member of the Armed
504 Forces for a period during which he is officially determined to be
505 absent from his post of duty without authority.

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

509 (f) "Employee" means one who is a citizen or national
510 of the United States or an alien admitted to the United States for
511 permanent residence and is a resident of the State of Mississippi
512 and is employed in or under a federal executive agency or
513 department of the Armed Forces.



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

518 (h) If refund or credit of any overpayment of tax for
519 any taxable year resulting from the application of this subsection
520 (5) is prevented by the operation of any law or rule of law, such
521 refund or credit of such overpayment of tax may, nevertheless, be
522 made or allowed if claim therefor is filed with the Department of
523 Revenue within three (3) years after the date of the enactment of
524 this subsection.

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

527 (6) A shareholder of an S corporation, as defined in Section
528 27-8-3(1)(g), shall take into account the income, loss, deduction
529 or credit of the S corporation only to the extent provided in
530 Section 27-8-7(2).

531 **SECTION 4.** Sections 1 and 2 of this act shall be codified as
532 new sections in Chapter 7, Title 27, Mississippi Code of 1972.

533 **SECTION 5.** Nothing in this act shall affect or defeat any
534 claim, assessment, appeal, suit, right or cause of action for
535 taxes due or accrued under the income tax laws before the date on
536 which this act becomes effective, whether such claims,
537 assessments, appeals, suits or actions have been begun before the
538 date on which this act becomes effective or are begun thereafter;



539 and the provisions of the income tax laws are expressly continued
540 in full force, effect and operation for the purpose of the
541 assessment, collection and enrollment of liens for any taxes due
542 or accrued and the execution of any warrant under such laws before
543 the date on which this act becomes effective, and for the
544 imposition of any penalties, forfeitures or claims for failure to
545 comply with such laws.

546 **SECTION 6.** This act shall take effect and be in force from
547 and after January 1, 2017.

