

By: Senator(s) Fillingane

To: Finance

SENATE BILL NO. 2439

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

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

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

15 (a) "Account holder" means an individual who
 16 establishes, individually or jointly with one (1) or more other
 17 individuals, an account with a financial institution for which the
 18 account holder claims a first-time homebuyer savings account
 19 status on his Mississippi income tax return.

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



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

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

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

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

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

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



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

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

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

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

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

68 (b) An account holder shall:

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



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

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

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

89 (i) In the case of joint account holders who are
90 married individuals filing a joint or combined return,
91 contributions in the amount of not more than Five Thousand Dollars
92 (\$5,000.00) may be excluded from gross income in any taxable year;
93 or

94 (ii) In the case of account holders who are not
95 married individuals who are joint account holders filing a joint
96 or combined return, contributions in the amount of not more than



97 Two Thousand Five Hundred Dollars (\$2,500.00) may be excluded from
98 gross income in any taxable year.

99 (b) Only cash and marketable securities may be
100 contributed to an account.

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

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



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

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

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



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

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

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



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

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

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



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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

413 (i) "Qualified individual" means any individual
414 whose household income does not exceed one hundred twenty percent
415 (120%) of the area median gross income (as defined by the United



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

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

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

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

432 (iv) "Qualified housing expenses" means:

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



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

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

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

455 (hh) The amount deposited in a catastrophe savings
456 account established under Sections 27-7-1001 through 27-7-1007,
457 interest income earned on the catastrophe savings account, and
458 distributions from the catastrophe savings account; however, any
459 amount withdrawn from a catastrophe savings account for purposes
460 other than paying qualified catastrophe expenses shall be included
461 in gross income, except as otherwise provided by Sections
462 27-7-1001 through 27-7-1007.

463 (ii) Amounts deposited into a first-time homebuyer
464 savings account and any interest or other income earned or
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 as provided for in
468 Sections 1 and 2 of this act.

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

470 (a) **Members of the Armed Forces.** Gross income does not
471 include compensation received for active service as a member of
472 the Armed Forces of the United States for any month during any
473 part of which such member is in a missing status, as defined in
474 paragraph (d) of this subsection, during the Vietnam Conflict as a
475 result of such conflict.

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

480 (c) **Period of conflict.** For the purpose of this
481 subsection, the Vietnam Conflict began February 28, 1961, and ends
482 on the date designated by the President by Executive Order as the
483 date of the termination of combatant activities in Vietnam. For
484 the purpose of this subsection, an individual is in a missing
485 status as a result of the Vietnam Conflict if immediately before
486 such status began he was performing service in Vietnam or was
487 performing service in Southeast Asia in direct support of military
488 operations in Vietnam. "Southeast Asia," as used in this
489 paragraph, is defined to include Cambodia, Laos, Thailand and
490 waters adjacent thereto.



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

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

503 (f) "Employee" means one who is a citizen or national
504 of the United States or an alien admitted to the United States for
505 permanent residence and is a resident of the State of Mississippi
506 and is employed in or under a federal executive agency or
507 department of the Armed Forces.

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

512 (h) If refund or credit of any overpayment of tax for
513 any taxable year resulting from the application of this subsection
514 (5) is prevented by the operation of any law or rule of law, such
515 refund or credit of such overpayment of tax may, nevertheless, be



516 made or allowed if claim therefor is filed with the Department of
517 Revenue within three (3) years after the date of the enactment of
518 this subsection.

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

521 (6) A shareholder of an S corporation, as defined in Section
522 27-8-3(1)(g), shall take into account the income, loss, deduction
523 or credit of the S corporation only to the extent provided in
524 Section 27-8-7(2).

525 **SECTION 4.** This act shall take effect and be in force from
526 and after January 1, 2018.

