

By: Senator(s) Blount, Simmons (12th),
Bryan, Norwood, Jackson (11th), Frazier,
Dawkins, Turner-Ford, Horhn, Jordan, Butler,
Jolly

To: Finance

SENATE BILL NO. 2769

1 AN ACT TO AMEND SECTION 27-7-5, MISSISSIPPI CODE OF 1972, TO
2 REMOVE THE PROVISIONS THAT PHASE OUT, BEGINNING JANUARY 1, 2018,
3 INCOME TAXATION ON THE FIRST \$5,000.00 OF TAXABLE INCOME; TO AMEND
4 SECTION 27-7-18, MISSISSIPPI CODE OF 1972, TO REMOVE A PROVISION
5 THAT AUTHORIZES A PORTION OF THE FEDERAL SELF-EMPLOYMENT TAXES
6 ASSESSED AGAINST SELF-EMPLOYED INDIVIDUALS TO BE ALLOWED AS AN
7 ADJUSTMENT TO GROSS INCOME UNDER THE STATE INCOME TAX LAW; TO
8 AMEND SECTIONS 27-13-5 AND 27-13-7, MISSISSIPPI CODE OF 1972, TO
9 REMOVE THE PROVISIONS THAT PHASE OUT, BEGINNING JANUARY 1, 2018,
10 THE CORPORATION FRANCHISE TAX; TO REPEAL SECTION 5, CHAPTER 499,
11 LAWS OF 2016, WHICH REPEALS THE CORPORATION FRANCHISE LAW FROM AND
12 AFTER JANUARY 1, 2028; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 27-7-5, Mississippi Code of 1972, is
15 amended as follows:

16 27-7-5. (1) There is hereby assessed and levied, to be
17 collected and paid as hereinafter provided, for the calendar year
18 1983 and fiscal years ending during the calendar year 1983 and all
19 taxable years thereafter, upon the entire net income of every
20 resident individual, corporation, association, trust or estate, in
21 excess of the credits provided, a tax at the following rates:



22 (a) * * * On the first Five Thousand Dollars
23 (\$5,000.00) of taxable income, or any part thereof, the rate * * *
24 of three percent (3%);
25 * * *

26 (b) On * * * the next Five Thousand Dollars
27 (\$5,000.00) * * * of taxable income or any part thereof, at the
28 rate * * * of four percent (4%); and

29 (c) On all taxable income in excess of Ten Thousand
30 Dollars (\$10,000.00), at the rate * * * of five percent (5%).

31 (2) An S corporation, as defined in Section 27-8-3(1)(g),
32 shall not be subject to the income tax imposed under this section.

33 (3) A like tax is hereby imposed to be assessed, collected
34 and paid annually, except as hereinafter provided, at the rate
35 specified in this section and as hereinafter provided, upon and
36 with respect to the entire net income, from all property owned or
37 sold, and from every business, trade or occupation carried on in
38 this state by individuals, corporations, partnerships, trusts or
39 estates, not residents of the State of Mississippi.

40 (4) In the case of taxpayers having a fiscal year beginning
41 in a calendar year with a rate in effect that is different than
42 the rate in effect for the next calendar year and ending in the
43 next calendar year, the tax due for that taxable year shall be
44 determined by:



45 (a) Computing for the full fiscal year the amount of
46 tax that would be due under the rates in effect for the calendar
47 year in which the fiscal year begins; and

48 (b) Computing for the full fiscal year the amount of
49 tax that would be due under the rates in effect for the calendar
50 year in which the fiscal year ends; and

51 (c) Applying to the tax computed under paragraph (a)
52 the ratio which the number of months falling within the earlier
53 calendar year bears to the total number of months in the fiscal
54 year; and

55 (d) Applying to the tax computed under paragraph (b)
56 the ratio which the number of months falling within the later
57 calendar year bears to the total number of months within the
58 fiscal year; and

59 (e) Adding to the tax determined under paragraph (c)
60 the tax determined under paragraph (d) the sum of which shall be
61 the amount of tax due for the fiscal year.

62 **SECTION 2.** Section 27-7-18, Mississippi Code of 1972, is
63 amended as follows:

64 27-7-18. (1) Alimony payments. In the case of a person
65 described in Section 27-7-15(2)(e), there shall be allowed as a
66 deduction from gross income amounts paid as periodic payments to
67 the extent of such amounts as are includible in the gross income
68 of the spouse as provided in Section 27-7-15(2)(e), payment of
69 which is made within the person's taxable year.



70 (2) Unreimbursed moving expenses incurred after December 31,
71 1994, are deductible as an adjustment to gross income in
72 accordance with provisions of the United States Internal Revenue
73 Code, and rules, regulations and revenue procedures thereunder
74 relating to moving expenses, not in direct conflict with the
75 provisions of the Mississippi Income Tax Law.

76 (3) Amounts paid after December 31, 1998, by a self-employed
77 individual for insurance which constitute medical care for the
78 taxpayer, his spouse and dependents, are deductible as an
79 adjustment to gross income in accordance with provisions of the
80 United States Internal Revenue Code, and rules, regulations and
81 revenue procedures thereunder relating to such payments, not in
82 direct conflict with the provisions of the Mississippi Income Tax
83 Law.

84 (4) Contributions or payments to a Mississippi Affordable
85 College Savings (MACS) Program account are deductible from gross
86 income as provided in Section 37-155-113. Payments made under a
87 prepaid tuition contract entered into under the Mississippi
88 Prepaid Affordable College Tuition Program are deductible as
89 provided in Section 37-155-17.

90 (5) (a) Unreimbursed travel expenses, lodging expenses and
91 lost wages an individual incurred as a result of, and related to,
92 the donation, while living, of one or more of his or her organs
93 for human organ transplantation, are deductible from gross income.
94 The deduction from gross income authorized by this subsection may



be claimed for only once and may not exceed Ten Thousand Dollars (\$10,000.00).

(b) As used in this subsection, "organ" means all or part of a liver, pancreas, kidney, intestine, lung or bone marrow.

* * *

SECTION 3. Section 27-13-5, Mississippi Code of 1972, is amended as follows:

27-13-5. (1) (a) **Franchise tax levy.** Except as otherwise provided in subsections (3), (4), (5) and (7) of this section, there is hereby imposed, to be paid and collected as hereinafter provided, a franchise or excise tax upon every corporation, association or joint-stock company or partnership treated as a corporation under the income tax laws or regulations, organized or created for pecuniary gain, having privileges not possessed by individuals, and having authorized capital stock now existing in this state, or hereafter organized, created or established, under and by virtue of the laws of the State of Mississippi, equal to * * * Two Dollars and Fifty Cents (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction thereof, of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

* * *

(b) In no case shall the franchise tax due for the accounting period be less than Twenty-five Dollars (\$25.00).



(c) It is the purpose of this section to require the payment to the State of Mississippi of this tax for the right granted by the laws of this state to exist as such organization, and to enjoy, under the protection of the laws of this state, the powers, rights, privileges and immunities derived from the state by the form of such existence.

(2) **Annual report of domestic corporations.** Each domestic corporation shall file an annual report as required by the provisions of Section 79-4-16.22.

(3) (a) A corporation that has negotiated a fee-in-lieu as defined in Section 57-75-5 shall not be subject to the tax levied by this section on such project; however, the fee-in-lieu payment shall be otherwise treated in the same manner as the payment of franchise taxes.

(b) (i) As used in this paragraph:

1. "Authority" shall have the meaning ascribed to such term in Section 57-75-5(b);

2. "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxix); and

3. "Enterprise" shall mean the corporation authorized for the project pursuant to Section 57-75-5(f)(xxix).

(ii) The term of the franchise tax fee-in-lieu agreement negotiated under this subsection and authorized by Section 57-75-5(j), between the authority and the enterprise for the project shall not exceed twenty-five (25) years. The



franchise tax fee-in-lieu agreement shall apply only to new franchise tax liability attributable to the project, and shall not apply to any existing franchise tax liability of the enterprise in connection with any current operations in this state.

(iii) In the event that the annual number of full-time jobs maintained by the enterprise falls below the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise for two (2) consecutive years, the franchise tax fee-in-lieu for the project shall be suspended until the first tax year during which the annual number of full-time jobs maintained by the enterprise reaches the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise.

(iv) The enterprise shall be entitled to utilize a single sales apportionment factor in the calculation of its liability for franchise tax imposed by this chapter which is attributable to the project for any year for which it files a Mississippi franchise tax return. The enterprise shall be entitled to continue to utilize such single sales apportionment factor notwithstanding a suspension of the franchise tax fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

(4) An approved business enterprise as defined in the Growth and Prosperity Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the



approved business enterprise in a growth and prosperity county or supervisors district as provided in the Growth and Prosperity Act.

(5) A business enterprise operating a project as defined in Section 57-64-33, in a county that is a member of a regional economic development alliance created under the Regional Economic Development Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise in such a county as provided in Section 57-64-33.

(6) The tax levied by this chapter and paid by a business enterprise located in a redevelopment project area under Sections 57-91-1 through 57-91-11 shall be deposited into the Redevelopment Project Incentive Fund created in Section 57-91-9.

(7) A business enterprise as defined in Section 57-113-1 that is exempt from certain state taxes under Section 57-113-5 shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise.

SECTION 4. Section 27-13-7, Mississippi Code of 1972, is amended as follows:

27-13-7. (1) (a) **Franchise tax levy.** Except as otherwise provided in subsections (3), (4), (5) and (7) of this section, there is hereby imposed, levied and assessed upon every corporation, association or joint-stock company, or partnership treated as a corporation under the income tax laws or regulations



as hereinbefore defined, organized and existing under and by virtue of the laws of some other state, territory or country, or organized and existing without any specific statutory authority, now or hereafter doing business or exercising any power, privilege or right within this state, as hereinbefore defined, a franchise or excise tax equal to * * * Two Dollars and Fifty Cents (\$2.50) of each One Thousand Dollars (\$1,000.00), or fraction thereof, of the value of capital used, invested or employed within this state, except as hereinafter provided.

* * *

(b) In no case shall the franchise tax due for the accounting period be less than Twenty-five Dollars (\$25.00).

(c) It is the purpose of this section to require the payment of a tax by all organizations not organized under the laws of this state, measured by the amount of capital or its equivalent, for which such organization receives the benefit and protection of the government and laws of the state.

(2) **Annual report of foreign corporations.** Each foreign corporation authorized to transact business in this state shall file an annual report as required by the provisions of Section 79-4-16.22.

(3) (a) A corporation that has negotiated a fee-in-lieu as defined in Section 57-75-5 shall not be subject to the tax levied by this section on such project; however, the fee-in-lieu payment



shall be otherwise treated in the same manner as the payment of franchise taxes.

(b) (i) As used in this paragraph:

1. "Authority" shall have the meaning ascribed to such term in Section 57-75-5(b);

2. "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxix); and

3. "Enterprise" shall mean the corporation authorized for the project pursuant to Section 57-75-5(f)(xxix).

(ii) The term of the franchise tax fee-in-lieu agreement negotiated under this subsection and authorized by Section 57-75-5(j), between the authority and the enterprise for the project shall not exceed twenty-five (25) years. The franchise tax fee-in-lieu agreement shall apply only to new franchise tax liability attributable to the project, and shall not apply to any existing franchise tax liability of the enterprise in connection with any current operations in this state.

(iii) In the event that the annual number of full-time jobs maintained by the enterprise falls below the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise for two (2) consecutive years, the franchise tax fee-in-lieu for the project shall be suspended until the first tax year during which the annual number of full-time jobs maintained by the enterprise reaches the minimum annual number of full-time



jobs required by the authority pursuant to a written agreement between the authority and the enterprise.

(iv) The enterprise shall be entitled to utilize a single sales apportionment factor in the calculation of its liability for franchise tax imposed by this chapter which is attributable to the project for any year for which it files a Mississippi franchise tax return. The enterprise shall be entitled to continue to utilize such single sales apportionment factor notwithstanding a suspension of the franchise tax fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

(4) An approved business enterprise as defined in the Growth and Prosperity Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the approved business enterprise in a growth and prosperity county or supervisors district as provided in the Growth and Prosperity Act.

(5) A business enterprise operating a project as defined in Section 57-64-33, in a county that is a member of a regional economic development alliance created under the Regional Economic Development Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise in such a county as provided in Section 57-64-33.

(6) The tax levied by this chapter and paid by a business enterprise located in a redevelopment project area under Sections



268 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
269 Project Incentive Fund created in Section 57-91-9.

270 (7) A business enterprise as defined in Section 57-113-1
271 that is exempt from certain state taxes under Section 57-113-5
272 shall not be subject to the tax levied by this section on the
273 value of capital used, invested or employed by the business
274 enterprise.

275 **SECTION 5.** Section 5, Chapter 499, Laws of 2016, which
276 repeals the corporation franchise law from and after January 1,
277 2028, is repealed.

278 **SECTION 6.** This act shall take effect and be in force from
279 and after January 1, 2018.

