

By: Representatives Baria,
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To: Ways and Means

HOUSE BILL NO. 3

1 AN ACT TO AMEND SECTION 27-7-5, MISSISSIPPI CODE OF 1972, TO
2 REMOVE THE PROVISIONS THAT DECREASE THE INCOME TAX RATES FOR
3 CALENDAR YEARS 2019 AND THEREAFTER; TO AMEND SECTION 27-7-18,
4 MISSISSIPPI CODE OF 1972, TO REMOVE THE PROVISIONS THAT INCREASE
5 THE PORTION OF THE FEDERAL SELF-EMPLOYMENT TAXES ASSESSED AGAINST
6 SELF-EMPLOYED INDIVIDUALS THAT MAY BE ALLOWED AS AN ADJUSTMENT TO
7 GROSS INCOME UNDER THE STATE INCOME TAX LAW IN TAXABLE YEARS
8 ENDING IN 2019 AND THEREAFTER; TO AMEND SECTIONS 27-13-5 AND
9 27-13-7, MISSISSIPPI CODE OF 1972, TO REMOVE THE PROVISIONS THAT
10 DECREASE THE FRANCHISE TAX RATE FOR TAX YEARS BEGINNING ON OR
11 AFTER JANUARY 1, 2019; TO REPEAL SECTION 5, CHAPTER 499, LAWS OF
12 2016, WHICH REPEALS THE CORPORATION FRANCHISE LAW FROM AND AFTER
13 JANUARY 1, 2028; AND FOR RELATED PURPOSES.

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

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

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



(a) (i) Through calendar year 2017, on the first Five Thousand Dollars (\$5,000.00) of taxable income, or any part thereof, the rate shall be three percent (3%);

(ii) For calendar year 2018 and all taxable years thereafter, on the first One Thousand Dollars (\$1,000.00) of taxable income there shall be no tax levied, and on the next Four Thousand Dollars (\$4,000.00) of taxable income, or any part thereof, the rate shall be three percent (3%);

* * *

(b) On taxable income in excess of Five Thousand Dollars (\$5,000.00) up to and including Ten Thousand Dollars (\$10,000.00), or any part thereof, the rate shall be four percent (4%); and

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

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

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



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

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

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

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

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

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

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



71 27-7-18. (1) Alimony payments. In the case of a person
72 described in Section 27-7-15(2)(e), there shall be allowed as a
73 deduction from gross income amounts paid as periodic payments to
74 the extent of such amounts as are includible in the gross income
75 of the spouse as provided in Section 27-7-15(2)(e), payment of
76 which is made within the person's taxable year.

77 (2) Unreimbursed moving expenses incurred after December 31,
78 1994, are deductible as an adjustment to gross income in
79 accordance with provisions of the United States Internal Revenue
80 Code, and rules, regulations and revenue procedures thereunder
81 relating to moving expenses, not in direct conflict with the
82 provisions of the Mississippi Income Tax Law.

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

91 (4) Contributions or payments to a Mississippi Affordable
92 College Savings (MACS) Program account are deductible from gross
93 income as provided in Section 37-155-113. Payments made under a
94 prepaid tuition contract entered into under the Mississippi



Prepaid Affordable College Tuition Program are deductible as provided in Section 37-155-17.

(5) (a) Unreimbursed travel expenses, lodging expenses and lost wages an individual incurred as a result of, and related to, the donation, while living, of one or more of his or her organs for human organ transplantation, are deductible from gross income. 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.

(6) In the case of a self-employed individual, there shall be allowed as a deduction from gross income an amount equal to:

(a) Seventeen percent (17%) of the federal self-employment taxes imposed on such individual for taxable years ending in calendar year 2017;

(b) Thirty-four percent (34%) of the federal self-employment taxes imposed on such individual for taxable years ending in calendar year 2018 * * * and thereafter.

* * *

(7) Contributions or payments to a Mississippi Achieving a Better Life Experience (ABLE) Program account are deductible from gross income as provided in Section 43-28-13.

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:

(i) For tax years beginning before January 1, 2018, 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.

(ii) For tax years beginning on or after January 1, 2018, * * * and thereafter, Two Dollars and Fifty Cents (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), 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



169 Section 57-75-5(j), between the authority and the enterprise for
170 the project shall not exceed twenty-five (25) years. The
171 franchise tax fee-in-lieu agreement shall apply only to new
172 franchise tax liability attributable to the project, and shall not
173 apply to any existing franchise tax liability of the enterprise in
174 connection with any current operations in this state.

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

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



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

198 (5) A business enterprise operating a project as defined in
199 Section 57-64-33, in a county that is a member of a regional
200 economic development alliance created under the Regional Economic
201 Development Act shall not be subject to the tax levied by this
202 section on the value of capital used, invested or employed by the
203 business enterprise in such a county as provided in Section
204 57-64-33.

205 (6) The tax levied by this chapter and paid by a business
206 enterprise located in a redevelopment project area under Sections
207 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
208 Project Incentive Fund created in Section 57-91-9.

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

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

216 27-13-7. (1) (a) **Franchise tax levy.** Except as otherwise
217 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:

(i) For tax years beginning before January 1, 2018, 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.

(ii) For tax years beginning on or after January 1, 2018, * * * and thereafter, Two Dollars and Fifty Cents (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), 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 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 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 5. Section 5, Chapter 499, Laws of 2016, which repeals the corporation franchise law from and after January 1, 2028, is repealed.

SECTION 6. This act shall take effect and be in force from and after January 1, 2019.

