

By: Representative Currie

To: Ways and Means

HOUSE BILL NO. 296

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO
2 EXCLUDE FROM GROSS INCOME UNDER THE STATE INCOME TAX LAW
3 COMPENSATION AND INCOME OF ANY KIND RECEIVED BY A PERSON WHO IS AN
4 HONORABLY DISCHARGED VETERAN OF THE ARMED FORCES OF THE UNITED
5 STATES; AND FOR RELATED PURPOSES.

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

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

9 27-7-15. (1) For the purposes of this article, except as
10 otherwise provided, the term "gross income" means and includes the
11 income of a taxpayer derived from salaries, wages, fees or
12 compensation for service, of whatever kind and in whatever form
13 paid, including income from governmental agencies and subdivisions
14 thereof; or from professions, vocations, trades, businesses,
15 commerce or sales, or renting or dealing in property, or
16 reacquired property; also from annuities, interest, rents,
17 dividends, securities, insurance premiums, reinsurance premiums,
18 considerations for supplemental insurance contracts, or the
19 transaction of any business carried on for gain or profit, or



20 gains, or profits, and income derived from any source whatever and
21 in whatever form paid. The amount of all such items of income
22 shall be included in the gross income for the taxable year in
23 which received by the taxpayer. The amount by which an eligible
24 employee's salary is reduced pursuant to a salary reduction
25 agreement authorized under Section 25-17-5 shall be excluded from
26 the term "gross income" within the meaning of this article.

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

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

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

35 (i) Prior to January 1, 2001, federal rules,
36 regulations and revenue procedures shall be followed with respect
37 to installment sales except they shall be applied and administered
38 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
39 106th Congress, had not been enacted. This provision will
40 generally affect taxpayers, reporting on the accrual method of
41 accounting, entering into installment note agreements on or after
42 December 17, 1999. Any gain or profit resulting from the casual
43 sale of property will be recognized in the year of sale.



44 (ii) From and after January 1, 2001, federal
45 rules, regulations and revenue procedures shall be followed with
46 respect to installment sales except as provided in this
47 subparagraph (ii). Gain or profit from the casual sale of
48 property shall be recognized in the year of sale. When a taxpayer
49 recognizes gain on the casual sale of property in which the gain
50 is deferred for federal income tax purposes, a taxpayer may elect
51 to defer the payment of tax resulting from the gain as allowed and
52 to the extent provided under regulations prescribed by the
53 commissioner. If the payment of the tax is made on a deferred
54 basis, the tax shall be computed based on the applicable rate for
55 the income reported in the year the payment is made. Except as
56 otherwise provided in subparagraph (iii) of this paragraph (b),
57 deferring the payment of the tax shall not affect the liability
58 for the tax. If at any time the installment note is sold,
59 contributed, transferred or disposed of in any manner and for any
60 purpose by the original note holder, or the original note holder
61 is merged, liquidated, dissolved or withdrawn from this state,
62 then all deferred tax payments under this section shall
63 immediately become due and payable.

64 (iii) If the selling price of the property is
65 reduced by any alteration in the terms of an installment note,
66 including default by the purchaser, the gain to be recognized is
67 recomputed based on the adjusted selling price in the same manner
68 as for federal income tax purposes. The tax on this amount, less



69 the previously paid tax on the recognized gain, is payable over
70 the period of the remaining installments. If the tax on the
71 previously recognized gain has been paid in full to this state,
72 the return on which the payment was made may be amended for this
73 purpose only. The statute of limitations in Section 27-7-49 shall
74 not bar an amended return for this purpose.

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

78 (d) **Affiliated companies or persons.** As regards sales,
79 exchanges or payments for services from one to another of
80 affiliated companies or persons or under other circumstances where
81 the relation between the buyer and seller is such that gross
82 proceeds from the sale or the value of the exchange or the payment
83 for services are not indicative of the true value of the subject
84 matter of the sale, exchange or payment for services, the
85 commissioner shall prescribe uniform and equitable rules for
86 determining the true value of the gross income, gross sales,
87 exchanges or payment for services, or require consolidated returns
88 of affiliates.

89 (e) **Alimony and separate maintenance payments.** The
90 federal rules, regulations and revenue procedures in determining
91 the deductibility and taxability of alimony payments shall be
92 followed in this state.



93 (f) **Reimbursement for expenses of moving.** There shall
94 be included in gross income (as compensation for services) any
95 amount received or accrued, directly or indirectly, by an
96 individual as a payment for or reimbursement of expenses of moving
97 from one (1) residence to another residence which is attributable
98 to employment or self-employment.

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

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

104 (a) The proceeds of life insurance policies and
105 contracts paid upon the death of the insured. However, the income
106 from the proceeds of such policies or contracts shall be included
107 in the gross income.

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

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

115 (d) Interest upon the obligations of the United States
116 or its possessions, or securities issued under the provisions of
117 the Federal Farm Loan Act of 1916, or bonds issued by the War



118 Finance Corporation, or obligations of the State of Mississippi or
119 political subdivisions thereof.

120 (e) The amounts received through accident or health
121 insurance as compensation for personal injuries or sickness, plus
122 the amount of any damages received for such injuries or such
123 sickness or injuries, or through the War Risk Insurance Act, or
124 any law for the benefit or relief of injured or disabled members
125 of the military or naval forces of the United States.

126 (f) Income received by any religious denomination or by
127 any institution or trust for moral or mental improvements,
128 religious, Bible, tract, charitable, benevolent, fraternal,
129 missionary, hospital, infirmary, educational, scientific,
130 literary, library, patriotic, historical or cemetery purposes or
131 for two (2) or more of such purposes, if such income be used
132 exclusively for carrying out one or more of such purposes.

133 (g) Income received by a domestic corporation which is
134 "taxable in another state" as this term is defined in this
135 article, derived from business activity conducted outside this
136 state. Domestic corporations taxable both within and without the
137 state shall determine Mississippi income on the same basis as
138 provided for foreign corporations under the provisions of this
139 article.

140 (h) In case of insurance companies, there shall be
141 excluded from gross income such portion of actual premiums
142 received from an individual policyholder as is paid back or



143 credited to or treated as an abatement of premiums of such
144 policyholder within the taxable year.

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

149 (j) Amounts paid by the United States to a person as
150 added compensation for hazardous duty pay as a member of the Armed
151 Forces of the United States in a combat zone designated by
152 Executive Order of the President of the United States.

153 (k) Amounts received as retirement allowances,
154 pensions, annuities or optional retirement allowances paid under
155 the federal Social Security Act, the Railroad Retirement Act, the
156 Federal Civil Service Retirement Act, or any other retirement
157 system of the United States government, retirement allowances paid
158 under the Mississippi Public Employees' Retirement System,
159 Mississippi Highway Safety Patrol Retirement System or any other
160 retirement system of the State of Mississippi or any political
161 subdivision thereof. The exemption allowed under this paragraph
162 (k) shall be available to the spouse or other beneficiary at the
163 death of the primary retiree.

164 (l) Amounts received as retirement allowances,
165 pensions, annuities or optional retirement allowances paid by any
166 public or governmental retirement system not designated in
167 paragraph (k) or any private retirement system or plan of which



168 the recipient was a member at any time during the period of his
169 employment. Amounts received as a distribution under a Roth
170 Individual Retirement Account shall be treated in the same manner
171 as provided under the Internal Revenue Code of 1986, as amended.
172 The exemption allowed under this paragraph (l) shall be available
173 to the spouse or other beneficiary at the death of the primary
174 retiree.

175 (m) National Guard or Reserve Forces of the United
176 States compensation not to exceed the aggregate sum of Five
177 Thousand Dollars (\$5,000.00) for any taxable year through the 2005
178 taxable year, and not to exceed the aggregate sum of Fifteen
179 Thousand Dollars (\$15,000.00) for any taxable year thereafter.

180 (n) Compensation received for active service as a
181 member below the grade of commissioned officer and so much of the
182 compensation as does not exceed the maximum enlisted amount
183 received for active service as a commissioned officer in the Armed
184 Forces of the United States for any month during any part of which
185 such members of the Armed Forces (i) served in a combat zone as
186 designated by Executive Order of the President of the United
187 States or a qualified hazardous duty area as defined by federal
188 law, or both; or (ii) was hospitalized as a result of wounds,
189 disease or injury incurred while serving in such combat zone. For
190 the purposes of this paragraph (n), the term "maximum enlisted
191 amount" means and has the same definition as that term has in 26
192 USCS 112.



193 (o) The proceeds received from federal and state
194 forestry incentive programs.

195 (p) The amount representing the difference between the
196 increase of gross income derived from sales for export outside the
197 United States as compared to the preceding tax year wherein gross
198 income from export sales was highest, and the net increase in
199 expenses attributable to such increased exports. In the absence
200 of direct accounting, the ratio of net profits to total sales may
201 be applied to the increase in export sales. This paragraph (p)
202 shall only apply to businesses located in this state engaging in
203 the international export of Mississippi goods and services. Such
204 goods or services shall have at least fifty percent (50%) of value
205 added at a location in Mississippi.

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

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

216 (s) Amounts paid by the Mississippi Soil and Water
217 Conservation Commission from the Mississippi Soil and Water



218 Cost-Share Program for the installation of water quality best
219 management practices.

220 (t) Dividends received by a holding corporation, as
221 defined in Section 27-13-1, from a subsidiary corporation, as
222 defined in Section 27-13-1.

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

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

232 (w) Income resulting from transactions with a related
233 member where the related member subject to tax under this chapter
234 was required to, and did in fact, add back the expense of such
235 transactions as required by Section 27-7-17(2). Under no
236 circumstances may the exclusion from income exceed the deduction
237 add-back of the related member, nor shall the exclusion apply to
238 any income otherwise excluded under this chapter.

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



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

246 (z) Interest, dividends, gains or income of any kind on
247 any account in a qualified tuition program and amounts received as
248 distributions under a qualified tuition program shall be treated
249 in the same manner as provided under the United States Internal
250 Revenue Code, as amended. For the purposes of this paragraph (z),
251 the term "qualified tuition program" means and has the same
252 definition as that term has in 26 USCS 529.

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

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

264 (cc) Amounts received as a "qualified Hurricane Katrina
265 distribution" as defined in the United States Internal Revenue
266 Code, as amended.



267 (dd) Amounts received by an individual which may be
268 excluded from income as foreign earned income for federal income
269 tax purposes.

270 (ee) Amounts received by a qualified individual,
271 directly or indirectly, from an employer or nonprofit housing
272 organization that are qualified housing expenses associated with
273 an employer-assisted housing program. For purposes of this
274 paragraph (ee):

275 (i) "Qualified individual" means any individual
276 whose household income does not exceed one hundred twenty percent
277 (120%) of the area median gross income (as defined by the United
278 States Department of Housing and Urban Development), adjusted for
279 household size, for the area in which the housing is located.

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

284 1. Homeownership education or counseling;
285 2. The development of affordable housing; or
286 3. The development or administration of
287 employer-assisted housing programs.

288 (iii) "Employer-assisted housing program" means a
289 separate written plan of any employer (including, without
290 limitation, tax-exempt organizations and public employers) for the
291 exclusive benefit of the employer's employees to pay qualified



292 housing expenses to assist the employer's employees in securing
293 affordable housing.

294 (iv) "Qualified housing expenses" means:

295 1. With respect to rental assistance, an
296 amount not to exceed Two Thousand Dollars (\$2,000.00) paid for the
297 purpose of assisting employees with security deposits and rental
298 subsidies; and

299 2. With respect to homeownership assistance,
300 an amount not to exceed the lesser of Ten Thousand Dollars
301 (\$10,000.00) or six percent (6%) of the purchase price of the
302 employee's principal residence that is paid for the purpose of
303 assisting employees with down payments, payment of closing costs,
304 reduced interest mortgages, mortgage guarantee programs, mortgage
305 forgiveness programs, equity contribution programs, or
306 contributions to homebuyer education and/or homeownership
307 counseling of eligible employees.

308 (ff) For the 2010 taxable year and any taxable year
309 thereafter, amounts converted in accordance with the United States
310 Internal Revenue Code, as amended, from a traditional Individual
311 Retirement Account to a Roth Individual Retirement Account. The
312 exemption allowed under this paragraph (ff) shall be available to
313 the spouse or other beneficiary at the death of the primary
314 retiree.

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



317 (hh) The amount deposited in a catastrophe savings
318 account established under Sections 27-7-1001 through 27-7-1007,
319 interest income earned on the catastrophe savings account, and
320 distributions from the catastrophe savings account; however, any
321 amount withdrawn from a catastrophe savings account for purposes
322 other than paying qualified catastrophe expenses shall be included
323 in gross income, except as otherwise provided by Sections
324 27-7-1001 through 27-7-1007.

325 (ii) Interest, dividends, gains or income of any kind
326 on any account in the Mississippi Achieving a Better Life
327 Experience (ABLE) Trust Fund, as established in Chapter 28, Title
328 43, to the extent that such amounts remain on deposit in the ABLE
329 Trust Fund or are withdrawn pursuant to a qualified withdrawal, as
330 defined in Section 43-28-11.

331 (jj) Subject to the limitations provided under Section
332 27-7-1103, amounts deposited into a first-time homebuyer savings
333 account and any interest or other income earned attributable to an
334 account and monies or funds withdrawn or distributed from an
335 account for the payment of eligible costs by or on behalf of a
336 qualified beneficiary; however, any monies or funds withdrawn or
337 distributed from a first-time homebuyer savings account for any
338 purpose other than the payment of eligible costs by or on behalf
339 of a qualified beneficiary shall be included in gross income. For
340 the purpose of this paragraph (jj), the terms "first-time
341 homebuyer savings account," "eligible costs" and "qualified



342 beneficiary" mean and have the same definitions as such terms have
343 in Section 27-7-1101.

344 (kk) Amounts paid by an agricultural disaster program
345 as compensation to an agricultural producer, cattle farmer or
346 cattle rancher who has suffered a loss as the result of a disaster
347 or emergency, including, but not limited to, the following United
348 States Department of Agriculture programs:

349 (i) Livestock Forage Disaster Program;

350 (ii) Livestock Indemnity Program;

351 (iii) Emergency Assistance for Livestock, Honey
352 Bees and Farm-raised Fish Program;

353 (iv) Emergency Conservation Program;

354 (v) Noninsured Crop Disaster Assistance Program;

355 (vi) Pasture, Rangeland, Forage Pilot Insurance
356 Program;

357 (vii) Annual Forage Pilot Program;

358 (viii) Livestock Risk Protection Insurance

359 Program; and

360 (ix) Livestock Gross Margin Insurance Plan.

361 (ll) Compensation and income of any kind received by a
362 person who is an honorably discharged veteran of the Armed Forces
363 of the United States. The exemption provided under this paragraph
364 (ll) shall be in addition to any other exemption provided under
365 this section.

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



367 (a) **Members of the Armed Forces.** Gross income does not
368 include compensation received for active service as a member of
369 the Armed Forces of the United States for any month during any
370 part of which such member is in a missing status, as defined in
371 paragraph (d) of this subsection, during the Vietnam Conflict as a
372 result of such conflict.

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

377 (c) **Period of conflict.** For the purpose of this
378 subsection, the Vietnam Conflict began February 28, 1961, and ends
379 on the date designated by the President by Executive Order as the
380 date of the termination of combatant activities in Vietnam. For
381 the purpose of this subsection, an individual is in a missing
382 status as a result of the Vietnam Conflict if immediately before
383 such status began he was performing service in Vietnam or was
384 performing service in Southeast Asia in direct support of military
385 operations in Vietnam. "Southeast Asia," as used in this
386 paragraph, is defined to include Cambodia, Laos, Thailand and
387 waters adjacent thereto.

388 (d) "Missing status" means the status of an employee or
389 member of the Armed Forces who is in active service and is
390 officially carried or determined to be absent in a status of (i)
391 missing; (ii) missing in action; (iii) interned in a foreign



392 country; (iv) captured, beleaguered or besieged by a hostile
393 force; or (v) detained in a foreign country against his will; but
394 does not include the status of an employee or member of the Armed
395 Forces for a period during which he is officially determined to be
396 absent from his post of duty without authority.

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

400 (f) "Employee" means one who is a citizen or national
401 of the United States or an alien admitted to the United States for
402 permanent residence and is a resident of the State of Mississippi
403 and is employed in or under a federal executive agency or
404 department of the Armed Forces.

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

409 (h) If refund or credit of any overpayment of tax for
410 any taxable year resulting from the application of this subsection
411 (5) is prevented by the operation of any law or rule of law, such
412 refund or credit of such overpayment of tax may, nevertheless, be
413 made or allowed if claim therefor is filed with the Department of
414 Revenue within three (3) years after the date of the enactment of
415 this subsection.



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

418 (6) A shareholder of an S corporation, as defined in Section
419 27-8-3(1)(g), shall take into account the income, loss, deduction
420 or credit of the S corporation only to the extent provided in
421 Section 27-8-7(2).

422 **SECTION 2.** Nothing in this act shall affect or defeat any
423 claim, assessment, appeal, suit, right or cause of action for
424 taxes due or accrued under the income tax laws before the date on
425 which this act becomes effective, whether such claims,
426 assessments, appeals, suits or actions have been begun before the
427 date on which this act becomes effective or are begun thereafter;
428 and the provisions of the income tax laws are expressly continued
429 in full force, effect and operation for the purpose of the
430 assessment, collection and enrollment of liens for any taxes due
431 or accrued and the execution of any warrant under such laws before
432 the date on which this act becomes effective, and for the
433 imposition of any penalties, forfeitures or claims for failure to
434 comply with such laws.

435 **SECTION 3.** This act shall take effect and be in force from
436 and after January 1, 2020.

