

By: Representatives Lamar, Bounds, Haney

To: Ways and Means

HOUSE BILL NO. 1748
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF THE TERM "GROSS INCOME" UNDER THE STATE
3 INCOME TAX LAW TO EXCLUDE AMOUNTS RECEIVED AS LOANS, ADVANCES
4 AND/OR GRANTS UNDER THE FEDERAL CORONAVIRUS AID, RELIEF, AND
5 ECONOMIC SECURITY (CARES) ACT; TO EXCLUDE ANY AND ALL CANCELLED
6 INDEBTEDNESS PROVIDED FOR UNDER THE CARES ACT; TO EXCLUDE AMOUNTS
7 RECEIVED AS PAYMENTS UNDER SECTION 4 OF SENATE BILL NO. 2772, 2020
8 REGULAR SESSION; TO EXCLUDE AMOUNTS RECEIVED AS GRANTS UNDER THE
9 2020 COVID-19 MISSISSIPPI BUSINESS ASSISTANCE ACT; TO AMEND
10 SECTION 11, SENATE BILL NO. 2772, 2020 REGULAR SESSION, TO PROVIDE
11 THAT THERE SHALL NOT BE ALLOWED A DEDUCTION FOR OTHERWISE
12 DEDUCTIBLE PAYMENTS PAID WITH FUNDS RECEIVED UNDER THE PAYCHECK
13 PROTECTION PROGRAM (PPP) ESTABLISHED BY THE CARES ACT, BUT ONLY TO
14 THE EXTENT THOSE PAYMENTS ARE NOT ALLOWED AS DEDUCTIONS FOR
15 FEDERAL INCOME TAX PURPOSES; AND FOR RELATED PURPOSES.

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

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

19 27-7-15. (1) For the purposes of this article, except as
20 otherwise provided, the term "gross income" means and includes the
21 income of a taxpayer derived from salaries, wages, fees or
22 compensation for service, of whatever kind and in whatever form
23 paid, including income from governmental agencies and subdivisions
24 thereof; or from professions, vocations, trades, businesses,



25 commerce or sales, or renting or dealing in property, or
26 reacquired property; also from annuities, interest, rents,
27 dividends, securities, insurance premiums, reinsurance premiums,
28 considerations for supplemental insurance contracts, or the
29 transaction of any business carried on for gain or profit, or
30 gains, or profits, and income derived from any source whatever and
31 in whatever form paid. The amount of all such items of income
32 shall be included in the gross income for the taxable year in
33 which received by the taxpayer. The amount by which an eligible
34 employee's salary is reduced pursuant to a salary reduction
35 agreement authorized under Section 25-17-5 shall be excluded from
36 the term "gross income" within the meaning of this article.

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

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

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

45 (i) Prior to January 1, 2001, federal rules,
46 regulations and revenue procedures shall be followed with respect
47 to installment sales except they shall be applied and administered
48 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
49 106th Congress, had not been enacted. This provision will



50 generally affect taxpayers, reporting on the accrual method of
51 accounting, entering into installment note agreements on or after
52 December 17, 1999. Any gain or profit resulting from the casual
53 sale of property will be recognized in the year of sale.

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



74 (iii) If the selling price of the property is
75 reduced by any alteration in the terms of an installment note,
76 including default by the purchaser, the gain to be recognized is
77 recomputed based on the adjusted selling price in the same manner
78 as for federal income tax purposes. The tax on this amount, less
79 the previously paid tax on the recognized gain, is payable over
80 the period of the remaining installments. If the tax on the
81 previously recognized gain has been paid in full to this state,
82 the return on which the payment was made may be amended for this
83 purpose only. The statute of limitations in Section 27-7-49 shall
84 not bar an amended return for this purpose.

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

88 (d) **Affiliated companies or persons.** As regards sales,
89 exchanges or payments for services from one to another of
90 affiliated companies or persons or under other circumstances where
91 the relation between the buyer and seller is such that gross
92 proceeds from the sale or the value of the exchange or the payment
93 for services are not indicative of the true value of the subject
94 matter of the sale, exchange or payment for services, the
95 commissioner shall prescribe uniform and equitable rules for
96 determining the true value of the gross income, gross sales,
97 exchanges or payment for services, or require consolidated returns
98 of affiliates.



99 (e) **Alimony and separate maintenance payments.** The
100 federal rules, regulations and revenue procedures in determining
101 the deductibility and taxability of alimony payments shall be
102 followed in this state.

103 (f) **Reimbursement for expenses of moving.** There shall
104 be included in gross income (as compensation for services) any
105 amount received or accrued, directly or indirectly, by an
106 individual as a payment for or reimbursement of expenses of moving
107 from one (1) residence to another residence which is attributable
108 to employment or self-employment.

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

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

114 (a) The proceeds of life insurance policies and
115 contracts paid upon the death of the insured. However, the income
116 from the proceeds of such policies or contracts shall be included
117 in the gross income.

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



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

125 (d) Interest upon the obligations of the United States
126 or its possessions, or securities issued under the provisions of
127 the Federal Farm Loan Act of 1916, or bonds issued by the War
128 Finance Corporation, or obligations of the State of Mississippi or
129 political subdivisions thereof.

130 (e) The amounts received through accident or health
131 insurance as compensation for personal injuries or sickness, plus
132 the amount of any damages received for such injuries or such
133 sickness or injuries, or through the War Risk Insurance Act, or
134 any law for the benefit or relief of injured or disabled members
135 of the military or naval forces of the United States.

136 (f) Income received by any religious denomination or by
137 any institution or trust for moral or mental improvements,
138 religious, Bible, tract, charitable, benevolent, fraternal,
139 missionary, hospital, infirmary, educational, scientific,
140 literary, library, patriotic, historical or cemetery purposes or
141 for two (2) or more of such purposes, if such income be used
142 exclusively for carrying out one or more of such purposes.

143 (g) Income received by a domestic corporation which is
144 "taxable in another state" as this term is defined in this
145 article, derived from business activity conducted outside this
146 state. Domestic corporations taxable both within and without the



147 state shall determine Mississippi income on the same basis as
148 provided for foreign corporations under the provisions of this
149 article.

150 (h) In case of insurance companies, there shall be
151 excluded from gross income such portion of actual premiums
152 received from an individual policyholder as is paid back or
153 credited to or treated as an abatement of premiums of such
154 policyholder within the taxable year.

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

159 (j) Amounts paid by the United States to a person as
160 added compensation for hazardous duty pay as a member of the Armed
161 Forces of the United States in a combat zone designated by
162 Executive Order of the President of the United States.

163 (k) Amounts received as retirement allowances,
164 pensions, annuities or optional retirement allowances paid under
165 the federal Social Security Act, the Railroad Retirement Act, the
166 Federal Civil Service Retirement Act, or any other retirement
167 system of the United States government, retirement allowances paid
168 under the Mississippi Public Employees' Retirement System,
169 Mississippi Highway Safety Patrol Retirement System or any other
170 retirement system of the State of Mississippi or any political
171 subdivision thereof. The exemption allowed under this paragraph



172 (k) shall be available to the spouse or other beneficiary at the
173 death of the primary retiree.

174 (l) Amounts received as retirement allowances,
175 pensions, annuities or optional retirement allowances paid by any
176 public or governmental retirement system not designated in
177 paragraph (k) or any private retirement system or plan of which
178 the recipient was a member at any time during the period of his
179 employment. Amounts received as a distribution under a Roth
180 Individual Retirement Account shall be treated in the same manner
181 as provided under the Internal Revenue Code of 1986, as amended.
182 The exemption allowed under this paragraph (l) shall be available
183 to the spouse or other beneficiary at the death of the primary
184 retiree.

185 (m) National Guard or Reserve Forces of the United
186 States compensation not to exceed the aggregate sum of Five
187 Thousand Dollars (\$5,000.00) for any taxable year through the 2005
188 taxable year, and not to exceed the aggregate sum of Fifteen
189 Thousand Dollars (\$15,000.00) for any taxable year thereafter.

190 (n) Compensation received for active service as a
191 member below the grade of commissioned officer and so much of the
192 compensation as does not exceed the maximum enlisted amount
193 received for active service as a commissioned officer in the Armed
194 Forces of the United States for any month during any part of which
195 such members of the Armed Forces (i) served in a combat zone as
196 designated by Executive Order of the President of the United



197 States or a qualified hazardous duty area as defined by federal
198 law, or both; or (ii) was hospitalized as a result of wounds,
199 disease or injury incurred while serving in such combat zone. For
200 the purposes of this paragraph (n), the term "maximum enlisted
201 amount" means and has the same definition as that term has in 26
202 USCS 112.

203 (o) The proceeds received from federal and state
204 forestry incentive programs.

205 (p) The amount representing the difference between the
206 increase of gross income derived from sales for export outside the
207 United States as compared to the preceding tax year wherein gross
208 income from export sales was highest, and the net increase in
209 expenses attributable to such increased exports. In the absence
210 of direct accounting, the ratio of net profits to total sales may
211 be applied to the increase in export sales. This paragraph (p)
212 shall only apply to businesses located in this state engaging in
213 the international export of Mississippi goods and services. Such
214 goods or services shall have at least fifty percent (50%) of value
215 added at a location in Mississippi.

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

219 (r) The amount deposited in a medical savings account,
220 and any interest accrued thereon, that is a part of a medical
221 savings account program as specified in the Medical Savings



222 Account Act under Sections 71-9-1 through 71-9-9; provided,
223 however, that any amount withdrawn from such account for purposes
224 other than paying eligible medical expense or to procure health
225 coverage shall be included in gross income.

226 (s) Amounts paid by the Mississippi Soil and Water
227 Conservation Commission from the Mississippi Soil and Water
228 Cost-Share Program for the installation of water quality best
229 management practices.

230 (t) Dividends received by a holding corporation, as
231 defined in Section 27-13-1, from a subsidiary corporation, as
232 defined in Section 27-13-1.

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

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

242 (w) Income resulting from transactions with a related
243 member where the related member subject to tax under this chapter
244 was required to, and did in fact, add back the expense of such
245 transactions as required by Section 27-7-17(2). Under no
246 circumstances may the exclusion from income exceed the deduction



247 add-back of the related member, nor shall the exclusion apply to
248 any income otherwise excluded under this chapter.

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

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

256 (z) Interest, dividends, gains or income of any kind on
257 any account in a qualified tuition program and amounts received as
258 distributions under a qualified tuition program shall be treated
259 in the same manner as provided under the United States Internal
260 Revenue Code, as amended. For the purposes of this paragraph (z),
261 the term "qualified tuition program" means and has the same
262 definition as that term has in 26 USCS 529.

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



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

274 (cc) Amounts received as a "qualified Hurricane Katrina
275 distribution" as defined in the United States Internal Revenue
276 Code, as amended.

277 (dd) Amounts received by an individual which may be
278 excluded from income as foreign earned income for federal income
279 tax purposes.

280 (ee) Amounts received by a qualified individual,
281 directly or indirectly, from an employer or nonprofit housing
282 organization that are qualified housing expenses associated with
283 an employer-assisted housing program. For purposes of this
284 paragraph (ee):

285 (i) "Qualified individual" means any individual
286 whose household income does not exceed one hundred twenty percent
287 (120%) of the area median gross income (as defined by the United
288 States Department of Housing and Urban Development), adjusted for
289 household size, for the area in which the housing is located.

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

- 294 1. Homeownership education or counseling;
295 2. The development of affordable housing; or



296 3. The development or administration of
297 employer-assisted housing programs.

298 (iii) "Employer-assisted housing program" means a
299 separate written plan of any employer (including, without
300 limitation, tax-exempt organizations and public employers) for the
301 exclusive benefit of the employer's employees to pay qualified
302 housing expenses to assist the employer's employees in securing
303 affordable housing.

304 (iv) "Qualified housing expenses" means:

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

309 2. With respect to homeownership assistance,
310 an amount not to exceed the lesser of Ten Thousand Dollars
311 (\$10,000.00) or six percent (6%) of the purchase price of the
312 employee's principal residence that is paid for the purpose of
313 assisting employees with down payments, payment of closing costs,
314 reduced interest mortgages, mortgage guarantee programs, mortgage
315 forgiveness programs, equity contribution programs, or
316 contributions to homebuyer education and/or homeownership
317 counseling of eligible employees.

318 (ff) For the 2010 taxable year and any taxable year
319 thereafter, amounts converted in accordance with the United States
320 Internal Revenue Code, as amended, from a traditional Individual



321 Retirement Account to a Roth Individual Retirement Account. The
322 exemption allowed under this paragraph (ff) shall be available to
323 the spouse or other beneficiary at the death of the primary
324 retiree.

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

327 (hh) The amount deposited in a catastrophe savings
328 account established under Sections 27-7-1001 through 27-7-1007,
329 interest income earned on the catastrophe savings account, and
330 distributions from the catastrophe savings account; however, any
331 amount withdrawn from a catastrophe savings account for purposes
332 other than paying qualified catastrophe expenses shall be included
333 in gross income, except as otherwise provided by Sections
334 27-7-1001 through 27-7-1007.

335 (ii) Interest, dividends, gains or income of any kind
336 on any account in the Mississippi Achieving a Better Life
337 Experience (ABLE) Trust Fund, as established in Chapter 28, Title
338 43, to the extent that such amounts remain on deposit in the ABLE
339 Trust Fund or are withdrawn pursuant to a qualified withdrawal, as
340 defined in Section 43-28-11.

341 (jj) Subject to the limitations provided under Section
342 27-7-1103, amounts deposited into a first-time homebuyer savings
343 account and any interest or other income earned attributable to an
344 account and monies or funds withdrawn or distributed from an
345 account for the payment of eligible costs by or on behalf of a



346 qualified beneficiary; however, any monies or funds withdrawn or
347 distributed from a first-time homebuyer savings account for any
348 purpose other than the payment of eligible costs by or on behalf
349 of a qualified beneficiary shall be included in gross income. For
350 the purpose of this paragraph (jj), the terms "first-time
351 homebuyer savings account," "eligible costs" and "qualified
352 beneficiary" mean and have the same definitions as such terms have
353 in Section 27-7-1101.

354 (kk) Amounts paid by an agricultural disaster program
355 as compensation to an agricultural producer, cattle farmer or
356 cattle rancher who has suffered a loss as the result of a disaster
357 or emergency, including, but not limited to, the following United
358 States Department of Agriculture programs:

- 359 (i) Livestock Forage Disaster Program;
360 (ii) Livestock Indemnity Program;
361 (iii) Emergency Assistance for Livestock, Honey
362 Bees and Farm-raised Fish Program;
363 (iv) Emergency Conservation Program;
364 (v) Noninsured Crop Disaster Assistance Program;
365 (vi) Pasture, Rangeland, Forage Pilot Insurance
366 Program;
367 (vii) Annual Forage Pilot Program;
368 (viii) Livestock Risk Protection Insurance
369 Program; and
370 (ix) Livestock Gross Margin Insurance Plan.



371 (ll) Amounts received as advances and/or grants under
372 the federal Coronavirus Aid, Relief, and Economic Security Act.

373 (mm) Any and all cancelled indebtedness provided for
374 under the Coronavirus Aid, Relief, and Economic Security Act.

375 (nn) Amounts received as payments under Section 4 of
376 Senate Bill No. 2772, 2020 Regular Session.

377 (oo) Amounts received as grants under the 2020 COVID-19
378 Mississippi Business Assistance Act.

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

380 (a) **Members of the Armed Forces.** Gross income does not
381 include compensation received for active service as a member of
382 the Armed Forces of the United States for any month during any
383 part of which such member is in a missing status, as defined in
384 paragraph (d) of this subsection, during the Vietnam Conflict as a
385 result of such conflict.

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

390 (c) **Period of conflict.** For the purpose of this
391 subsection, the Vietnam Conflict began February 28, 1961, and ends
392 on the date designated by the President by Executive Order as the
393 date of the termination of combatant activities in Vietnam. For
394 the purpose of this subsection, an individual is in a missing
395 status as a result of the Vietnam Conflict if immediately before



396 such status began he was performing service in Vietnam or was
397 performing service in Southeast Asia in direct support of military
398 operations in Vietnam. "Southeast Asia," as used in this
399 paragraph, is defined to include Cambodia, Laos, Thailand and
400 waters adjacent thereto.

401 (d) "Missing status" means the status of an employee or
402 member of the Armed Forces who is in active service and is
403 officially carried or determined to be absent in a status of (i)
404 missing; (ii) missing in action; (iii) interned in a foreign
405 country; (iv) captured, beleaguered or besieged by a hostile
406 force; or (v) detained in a foreign country against his will; but
407 does not include the status of an employee or member of the Armed
408 Forces for a period during which he is officially determined to be
409 absent from his post of duty without authority.

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

413 (f) "Employee" means one who is a citizen or national
414 of the United States or an alien admitted to the United States for
415 permanent residence and is a resident of the State of Mississippi
416 and is employed in or under a federal executive agency or
417 department of the Armed Forces.

418 (g) "Compensation" means (i) basic pay; (ii) special
419 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)



420 basic allowance for subsistence; and (vi) station per diem
421 allowances for not more than ninety (90) days.

422 (h) If refund or credit of any overpayment of tax for
423 any taxable year resulting from the application of this subsection
424 (5) is prevented by the operation of any law or rule of law, such
425 refund or credit of such overpayment of tax may, nevertheless, be
426 made or allowed if claim therefor is filed with the Department of
427 Revenue within three (3) years after the date of the enactment of
428 this subsection.

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

431 (6) A shareholder of an S corporation, as defined in Section
432 27-8-3(1)(g), shall take into account the income, loss, deduction
433 or credit of the S corporation only to the extent provided in
434 Section 27-8-7(2).

435 **SECTION 2.** Nothing in this act shall affect or defeat any
436 claim, assessment, appeal, suit, right or cause of action for
437 taxes due or accrued under the income tax laws before the date on
438 which this act becomes effective, whether such claims,
439 assessments, appeals, suits or actions have been begun before the
440 date on which this act becomes effective or are begun thereafter;
441 and the provisions of the income tax laws are expressly continued
442 in full force, effect and operation for the purpose of the
443 assessment, collection and enrollment of liens for any taxes due
444 or accrued and the execution of any warrant under such laws before



445 the date on which this act becomes effective, and for the
446 imposition of any penalties, forfeitures or claims for failure to
447 comply with such laws.

448 **SECTION 3.** Section 11 of Senate Bill No. 2772, 2020 Regular
449 Session, is amended as follows:

450 Section 11. There shall not be allowed a deduction for
451 otherwise deductible payments paid with funds received under the
452 Paycheck Protection Program (PPP) * * * established by the
453 Coronavirus Aid, Relief, and Economic Security (CARES) Act, but
454 only to the extent those payments are not allowed as deductions
455 for federal income tax purposes. To the extent such payments are
456 allowed as deductions for federal income tax purposes, those
457 expenses shall be deemed to have been incurred in connection with
458 earning and distributing taxable income, notwithstanding that such
459 payments resulted in forgiveness of loans received.

460 **SECTION 4.** This act shall take effect and be in force from
461 and after January 1, 2020.

