

By: Representatives Gunn, Lamar, Stamps

To: Ways and Means

HOUSE BILL NO. 1685
(As Sent to Governor)

1 AN ACT TO CREATE THE PREGNANCY RESOURCE ACT; TO AUTHORIZE AN
2 INCOME TAX CREDIT, INSURANCE PREMIUM TAX CREDIT AND AD VALOREM TAX
3 CREDIT FOR VOLUNTARY CASH CONTRIBUTIONS BY CERTAIN TAXPAYERS TO
4 ELIGIBLE CHARITABLE ORGANIZATIONS; TO LIMIT THE AMOUNT OF THE TAX
5 CREDIT; TO PROVIDE THAT UNUSED PORTIONS OF A TAX CREDIT MAY BE
6 CARRIED FORWARD FOR FIVE CONSECUTIVE YEARS FROM THE CLOSE OF THE
7 TAX YEAR IN WHICH THE CREDIT WAS EARNED; TO PROVIDE THAT
8 CONTRIBUTIONS FOR WHICH TAX CREDITS ARE CLAIMED UNDER THIS ACT MAY
9 NOT BE USED AS DEDUCTIONS FOR STATE TAX PURPOSES; TO PROVIDE THE
10 CRITERIA THAT AN ELIGIBLE CHARITABLE ORGANIZATION MUST MEET IN
11 ORDER FOR A CONTRIBUTION TO THE ORGANIZATION TO QUALIFY FOR THE
12 TAX CREDIT AUTHORIZED BY THIS ACT; TO AMEND SECTION 27-7-22.41,
13 MISSISSIPPI CODE OF 1972, WHICH PROVIDES AN INCOME TAX CREDIT,
14 INSURANCE PREMIUM TAX CREDIT AND AD VALOREM TAX CREDIT FOR
15 CONTRIBUTIONS MADE BY CERTAIN TAXPAYERS TO CERTAIN ELIGIBLE
16 CHARITABLE ORGANIZATIONS, TO REVISE THE DEFINITION OF "ELIGIBLE
17 CHARITABLE ORGANIZATION"; TO ADD AS PART OF THE REQUIRED WRITTEN
18 CERTIFICATION A STATEMENT THAT THE FUNDS GENERATED FROM THE TAX
19 CREDIT SHALL BE USED FOR EDUCATIONAL RESOURCES, STAFF AND
20 EXPENDITURES AND/OR OTHER PURPOSES DESCRIBED IN THIS SECTION; TO
21 DELETE PROVISIONS THAT REQUIRE A CERTAIN PORTION OF TAX CREDITS
22 THAT MAY BE ALLOCATED UNDER THIS SECTION TO BE AVAILABLE SOLELY
23 FOR ALLOCATION FOR CONTRIBUTIONS TO CERTAIN ELIGIBLE CHARITABLE
24 ORGANIZATIONS; TO INCREASE THE AMOUNT OF CREDITS THAT MAY BE
25 ALLOCATED BY THE DEPARTMENT OF REVENUE UNDER THIS SECTION; TO
26 REVISE THE PERCENTAGE OF TAX CREDITS THAT MAY BE ALLOCATED DURING
27 A CALENDAR YEAR FOR CONTRIBUTIONS TO CERTAIN ELIGIBLE CHARITABLE
28 ORGANIZATIONS; TO AUTHORIZE AN INCOME TAX CREDIT FOR TAXPAYERS FOR
29 BLOOD DONATIONS MADE BY EMPLOYEES OF A TAXPAYER DURING A BLOOD
30 DRIVE; TO AMEND SECTION 27-7-17, MISSISSIPPI CODE OF 1972, AS
31 AMENDED BY SENATE BILL NO. 2095, 2022 REGULAR SESSION, AND HOUSE
32 BILL NO. 1529, 2022 REGULAR SESSION, TO CONFORM TO THE AMENDMENTS
33 MADE BY BOTH BILLS; AND FOR RELATED PURPOSES.



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

SECTION 1. (1) This section shall be known and may be cited as the "Pregnancy Resource Act."

(2) For the purposes of this section, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Department" means the Department of Revenue.

(b) "Eligible charitable organization" means an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and is a pregnancy resource center or crisis pregnancy center eligible to receive funding disbursed by the Choose Life Advisory Committee under Section 27-19-56.70, 27-19-56.277 and/or 27-19-56.412.

(3) (a) The tax credit authorized in this section shall be available only to a taxpayer who is a business enterprise engaged in commercial, industrial or professional activities and operating as a corporation, limited liability company, partnership or sole proprietorship. Except as otherwise provided in this section, a credit is allowed against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123, for voluntary cash contributions made by a taxpayer during the taxable year to an eligible charitable organization. For a taxpayer that is not operating as a corporation, a credit is also allowed against ad valorem taxes assessed and levied on real property for voluntary cash contributions made by the taxpayer during the taxable year to



an eligible charitable organization. The amount of credit that may be utilized by a taxpayer in a taxable year shall be limited to (i) an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for the taxes imposed by such sections of law and (ii) an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for ad valorem taxes assessed and levied on real property. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.

(b) A contribution for which a credit is claimed under this section may not be used as a deduction by the taxpayer for state income tax purposes.

(4) Taxpayers taking a credit authorized by this section shall provide the name of the eligible charitable organization and the amount of the contribution to the department on forms provided by the department.

(5) An eligible charitable organization shall provide the department with a written certification that it meets all criteria to be considered an eligible charitable organization. The organization shall also notify the department of any changes that may affect eligibility under this section.

(6) The eligible charitable organization's written certification must be signed by an officer of the organization



under penalty of perjury. The written certification shall include the following:

(a) Verification of the organization's status under Section 501(c)(3) of the Internal Revenue Code;

(b) A statement that the organization does not provide, pay for or provide coverage of abortions and does not financially support any other entity that provides, pays for or provides coverage of abortions;

(c) Any other information that the department requires to administer this section.

(7) The department shall review each written certification and determine whether the organization meets all the criteria to be considered an eligible charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of eligible charitable organizations.

(8) Tax credits authorized by this section that are earned by a partnership, limited liability company, S corporation or other similar pass-through entity, shall be allocated among all partners, members or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners, members or shareholders mutually agree as provided in an executed document.



(9) (a) A taxpayer shall apply for credits with the department on forms prescribed by the department. In the application the taxpayer shall certify to the department the dollar amount of the contributions made or to be made during the calendar year. Within thirty (30) days after the receipt of an application, the department shall allocate credits based on the dollar amount of contributions as certified in the application. However, if the department cannot allocate the full amount of credits certified in the application due to the limit on the aggregate amount of credits that may be awarded under this section in a calendar year, the department shall so notify the applicant within thirty (30) days with the amount of credits, if any, that may be allocated to the applicant in the calendar year. Once the department has allocated credits to a taxpayer, if the contribution for which a credit is allocated has not been made as of the date of the allocation, then the contribution must be made not later than sixty (60) days from the date of the allocation. If the contribution is not made within such time period, the allocation shall be cancelled and returned to the department for reallocation. Upon final documentation of the contributions, if the actual dollar amount of the contributions is lower than the amount estimated, the department shall adjust the tax credit allowed under this section.

(b) For the purposes of using a tax credit against ad valorem taxes assessed and levied on real property, a taxpayer



shall present to the appropriate tax collector the tax credit documentation provided to the taxpayer by the Department of Revenue, and the tax collector shall apply the tax credit against such ad valorem taxes. The tax collector shall forward the tax credit documentation to the Department of Revenue along with the amount of the tax credit applied against ad valorem taxes, and the department shall disburse funds to the tax collector for the amount of the tax credit applied against ad valorem taxes. Such payments by the Department of Revenue shall be made from current tax collections.

(10) The aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Three Million Five Hundred Thousand Dollars (\$3,500,000.00). For credits allocated during a calendar year for contributions to eligible charitable organizations, no more than fifty percent (50%) of such credits may be allocated for contributions to a single eligible charitable organization.

SECTION 2. Section 27-7-22.41, Mississippi Code of 1972, is amended as follows:

27-7-22.41. (1) For the purposes of this section, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Department" means the Department of Revenue.



(b) "Eligible charitable organization" means an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and is:

(i) Licensed by or under contract with the Mississippi Department of Child Protection Services and provides services for:

1. The prevention and diversion of children from custody with the Department of Child Protection Services,

2. The safety, care and well-being of children in custody with the Department of Child Protection Services, or

3. The express purpose of creating permanency for children through adoption; or

(ii) Certified by the department as an educational services charitable organization that is accredited by a regional accrediting organization and provides services to:

1. Children in a foster care placement program established by the Department of Child Protection Services, children placed under the Safe Families for Children model, or children at significant risk of entering a foster care placement program established by the Department of Child Protection Services,

2. Children who have a chronic illness or physical, intellectual, developmental or emotional disability, or



180 3. Children eligible for free or reduced
181 price meals programs under Section 37-11-7, or selected for
182 participation in the Promise Neighborhoods Program sponsored by
183 the U.S. Department of Education.

184 (2) (a) The tax credit authorized in this section shall be
185 available only to a taxpayer who is a business enterprise engaged
186 in commercial, industrial or professional activities and operating
187 as a corporation, limited liability company, partnership or sole
188 proprietorship. Except as otherwise provided in this section, a
189 credit is allowed against the taxes imposed by Sections 27-7-5,
190 27-15-103, 27-15-109 and 27-15-123, for voluntary cash
191 contributions made by a taxpayer during the taxable year to an
192 eligible charitable organization. From and after January 1, 2022,
193 for a taxpayer that is not operating as a corporation, a credit is
194 also allowed against ad valorem taxes assessed and levied on real
195 property for voluntary cash contributions made by the taxpayer
196 during the taxable year to an eligible charitable organization.
197 The amount of credit that may be utilized by a taxpayer in a
198 taxable year shall be limited to (i) an amount not to exceed fifty
199 percent (50%) of the total tax liability of the taxpayer for the
200 taxes imposed by such sections of law and (ii) an amount not to
201 exceed fifty percent (50%) of the total tax liability of the
202 taxpayer for ad valorem taxes assessed and levied on real
203 property. Any tax credit claimed under this section but not used
204 in any taxable year may be carried forward for five (5)



consecutive years from the close of the tax year in which the credits were earned.

(b) A contribution to an eligible charitable organization for which a credit is claimed under this section does not qualify for and shall not be included in any credit that may be claimed under Section 27-7-22.39.

(c) A contribution for which a credit is claimed under this section may not be used as a deduction by the taxpayer for state income tax purposes.

(3) Taxpayers taking a credit authorized by this section shall provide the name of the eligible charitable organization and the amount of the contribution to the department on forms provided by the department.

(4) An eligible charitable organization shall provide the department with a written certification that it meets all criteria to be considered an eligible charitable organization. An eligible charitable organization must also provide the department with written documented proof of its license and/or written contract with the Mississippi Department of Child Protection Services. The organization shall also notify the department of any changes that may affect eligibility under this section.

(5) The eligible charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification shall include the following:



(a) Verification of the organization's status under
Section 501(c)(3) of the Internal Revenue Code;

(b) A statement that the organization does not provide,
pay for or provide coverage of abortions and does not financially
support any other entity that provides, pays for or provides
coverage of abortions;

(c) A statement that the funds generated from the tax
credit shall be used for educational resources, staff and
expenditures and/or other purposes described in this section.

(* * *~~ed~~) Any other information that the department
requires to administer this section.

(6) The department shall review each written certification
and determine whether the organization meets all the criteria to
be considered an eligible charitable organization and notify the
organization of its determination. The department may also
periodically request recertification from the organization. The
department shall compile and make available to the public a list
of eligible charitable organizations.

(7) Tax credits authorized by this section that are earned
by a partnership, limited liability company, S corporation or
other similar pass-through entity, shall be allocated among all
partners, members or shareholders, respectively, either in
proportion to their ownership interest in such entity or as the
partners, members or shareholders mutually agree as provided in an
executed document.



(8) (a) A taxpayer shall apply for credits with the department on forms prescribed by the department. In the application the taxpayer shall certify to the department the dollar amount of the contributions made or to be made during the calendar year. Within thirty (30) days after the receipt of an application, the department shall allocate credits based on the dollar amount of contributions as certified in the application. However, if the department cannot allocate the full amount of credits certified in the application due to the limit on the aggregate amount of credits that may be awarded under this section in a calendar year, the department shall so notify the applicant within thirty (30) days with the amount of credits, if any, that may be allocated to the applicant in the calendar year. Once the department has allocated credits to a taxpayer, if the contribution for which a credit is allocated has not been made as of the date of the allocation, then the contribution must be made not later than sixty (60) days from the date of the allocation. If the contribution is not made within such time period, the allocation shall be cancelled and returned to the department for reallocation. Upon final documentation of the contributions, if the actual dollar amount of the contributions is lower than the amount estimated, the department shall adjust the tax credit allowed under this section.

(b) A taxpayer who applied for a tax credit under this section during calendar year 2020, but who was unable to be



awarded the credit due to the limit on the aggregate amount of credits authorized for calendar year 2020, shall be given priority for tax credits authorized to be allocated to taxpayers under this section by Section 27-7-22.39.

(c) For the purposes of using a tax credit against ad valorem taxes assessed and levied on real property, a taxpayer shall present to the appropriate tax collector the tax credit documentation provided to the taxpayer by the Department of Revenue, and the tax collector shall apply the tax credit against such ad valorem taxes. The tax collector shall forward the tax credit documentation to the Department of Revenue along with the amount of the tax credit applied against ad valorem taxes, and the department shall disburse funds to the tax collector for the amount of the tax credit applied against ad valorem taxes. Such payments by the Department of Revenue shall be made from current tax collections.

(9) The aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Five Million Dollars (\$5,000,000.00), and not more than fifty percent (50%) of tax credits allocated during a calendar year may be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section. However, for calendar year 2021, the aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Ten



Million Dollars (\$10,000,000.00), for calendar year 2022, * * *and
~~for each calendar year thereafter,~~ the aggregate amount of tax
credits that may be allocated by the department under this section
during a calendar year shall not exceed Sixteen Million Dollars
(\$16,000,000.00), and for calendar year 2023, and for each
calendar year thereafter, the aggregate amount of tax credits that
may be allocated by the department under this section during a
calendar year shall not exceed Eighteen Million Dollars
(\$18,000,000.00). For calendar year 2021, and for each calendar
year thereafter, fifty percent (50%) of the tax credits allocated
during a calendar year shall be allocated for contributions to
eligible charitable organizations described in subsection
(1)(b)(i) of this section and fifty percent (50%) of the tax
credits allocated during a calendar year shall be allocated for
contributions to eligible charitable organizations described in
subsection (1)(b)(ii) of this section. * * *~~For calendar year~~
~~2022, and for each calendar year thereafter, of the amount of tax~~
~~credits that may be allocated for contributions to eligible~~
~~charitable organizations described in subsection (1)(b)(ii) of~~
~~this section, fifteen percent (15%) of the tax credits shall be~~
~~available solely for allocation for contributions to eligible~~
~~charitable organizations described in subsection (1)(b)(ii)2;~~
~~however, any such tax credits not allocated before April 1 of a~~
~~calendar year may be allocated for contributions to eligible~~
~~charitable organizations described in subsection (1)(b)(ii)1 of~~



~~this section.~~ For calendar year 2021, and for each calendar year thereafter, for credits allocated during a calendar year for contributions to eligible charitable organizations described in subsection (1)(b)(i) of this section, no more than twenty-five percent (25%) of such credits may be allocated for contributions to a single eligible charitable organization. Except as otherwise provided in this section, for calendar year 2021, and for each calendar year thereafter, for credits allocated during a calendar year for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section, no more than * * * ~~five percent (5%)~~ four and one-half percent (4-1/2%) of such credits may be allocated for contributions to a single eligible charitable organization. * * * ~~However, for calendar year 2022, of the additional amount of tax credits authorized under this section, as amended by Chapter 480, Laws of 2021, for allocation for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section, Two Million Dollars (\$2,000,000.00) of the tax credits shall be available solely for allocation for contributions to Magnolia Speech School; however, any such tax credits not allocated before April 1, 2022, may be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section. However, for calendar year 2022, of the additional amount of tax credits authorized under this section, as amended by Chapter 480, Laws of 2021, for allocation for contributions to~~



~~eligible charitable organizations described in subsection
(1)(b)(ii) of this section, Two Million Dollars (\$2,000,000.00) of
the tax credits shall be available solely for allocation for
contributions to Magnolia Speech School; however, any such tax
credits not allocated before April 1, 2022, may be allocated for
contributions to eligible charitable organizations described in
subsection (1)(b)(ii) of this section.~~

SECTION 3. (1) As used in this section, the following words
shall have the meanings ascribed herein unless the context clearly
requires otherwise:

(a) "Blood donation" means the voluntary and
uncompensated donation of whole blood, or specific components of
blood, by an employee, drawn for use by a nonprofit blood bank
organization as part of a blood drive.

(b) "Blood drive" means a function held at a specific
date and time which is organized by a nonprofit blood bank
organization in coordination with an employer or group of
employers and is closed to nonemployees.

(c) "Employee" means an individual employed by an
employer authorized to claim a tax credit under this section.

(d) "Employer" means a sole proprietor, general
partnership, limited partnership, limited liability company,
corporation or other legally recognized business entity.



(e) "Verified donation" means a blood donation by an employee, made during a blood drive, which can be documented by an employer.

(2) Subject to the provisions of this section, for calendar year 2022 and for calendar year 2023, a taxpayer that is an employer shall be allowed a credit against the taxes imposed under this chapter for each verified blood donation made by an employee as part of a blood drive. The credit shall be for an amount equal to Twenty Dollars (\$20.00) for each verified donation. However, the tax credit shall not exceed the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits allowable to the taxpayer under this chapter, except credit for tax payments made by or on behalf of the taxpayer. The maximum aggregate amount of tax credits that may be claimed by all taxpayers claiming a credit under this section in a taxable year shall not exceed One Hundred Thousand Dollars (\$100,000.00). The department shall annually calculate and publish a percentage by which the tax credit authorized by this section shall be reduced so the maximum aggregate amount of tax credits claimed by all taxpayers claiming a credit in a taxable year does not exceed One Hundred Thousand Dollars (\$100,000.00).

SECTION 4. Section 27-7-17, Mississippi Code of 1972, as amended by Senate Bill No. 2095, 2022 Regular Session, and House Bill No. 1529, 2022 Regular Session, is amended as follows:



[Through February 1, 2022, this section shall read as follows:]

27-7-17. In computing taxable income, there shall be allowed as deductions:

(1) **Business deductions.**

(a) **Business expenses.** All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; nonreimbursable traveling expenses incident to current employment, including a reasonable amount expended for meals and lodging while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition of the continued use or possession, for purposes of the trade or business of property to which the taxpayer has not taken or is not taking title or in which he had no equity. Expense incurred in connection with earning and distributing nontaxable income is not an allowable deduction. Limitations on entertainment expenses shall conform to the provisions of the Internal Revenue Code of 1986.

(b) **Interest.** All interest paid or accrued during the taxable year on business indebtedness, except interest upon the indebtedness for the purchase of tax-free bonds, or any stocks, the dividends from which are nontaxable under the provisions of this article; provided, however, in the case of securities



dealers, interest payments or accruals on loans, the proceeds of which are used to purchase tax-exempt securities, shall be deductible if income from otherwise tax-free securities is reported as income. Investment interest expense shall be limited to investment income. Interest expense incurred for the purchase of treasury stock, to pay dividends, or incurred as a result of an undercapitalized affiliated corporation may not be deducted unless an ordinary and necessary business purpose can be established to the satisfaction of the commissioner. For the purposes of this paragraph, the phrase "interest upon the indebtedness for the purchase of tax-free bonds" applies only to the indebtedness incurred for the purpose of directly purchasing tax-free bonds and does not apply to any other indebtedness incurred in the regular course of the taxpayer's business. Any corporation, association, organization or other entity taxable under Section 27-7-23(c) shall allocate interest expense as provided in Section 27-7-23(c) (3) (I).

(c) **Taxes.** Taxes paid or accrued within the taxable year, except state and federal income taxes, excise taxes based on or measured by net income, estate and inheritance taxes, gift taxes, cigar and cigarette taxes, gasoline taxes, and sales and use taxes unless incurred as an item of expense in a trade or business or in the production of taxable income. In the case of an individual, taxes permitted as an itemized deduction under the



provisions of subsection (3)(a) of this section are to be claimed thereunder.

(d) **Business losses.**

(i) Losses sustained during the taxable year not compensated for by insurance or otherwise, if incurred in trade or business, or nonbusiness transactions entered into for profit.

(ii) Limitations on losses from passive activities and rental real estate shall conform to the provisions of the Internal Revenue Code of 1986.

(e) **Bad debts.** Losses from debts ascertained to be worthless and charged off during the taxable year, if sustained in the conduct of the regular trade or business of the taxpayer; provided, that such losses shall be allowed only when the taxpayer has reported as income, on the accrual basis, the amount of such debt or account.

(f) **Depreciation.** A reasonable allowance for exhaustion, wear and tear of property used in the trade or business, or rental property, and depreciation upon buildings based upon their reasonable value as of March 16, 1912, if acquired prior thereto, and upon cost if acquired subsequent to that date. In the case of new or used aircraft, equipment, engines, or other parts and tools used for aviation, allowance for bonus depreciation conforms with the federal bonus depreciation rates and reasonable allowance for depreciation under this section is no less than one hundred percent (100%).



476 (g) **Depletion.** In the case of mines, oil and gas
477 wells, other natural deposits and timber, a reasonable allowance
478 for depletion and for depreciation of improvements, based upon
479 cost, including cost of development, not otherwise deducted, or
480 fair market value as of March 16, 1912, if acquired prior to that
481 date, such allowance to be made upon regulations prescribed by the
482 commissioner, with the approval of the Governor.

483 (h) **Contributions or gifts.** Except as otherwise
484 provided in paragraph (p) of this subsection or subsection (3)(a)
485 of this section for individuals, contributions or gifts made by
486 corporations within the taxable year to corporations,
487 organizations, associations or institutions, including Community
488 Chest funds, foundations and trusts created solely and exclusively
489 for religious, charitable, scientific or educational purposes, or
490 for the prevention of cruelty to children or animals, no part of
491 the net earnings of which inure to the benefit of any private
492 stockholder or individual. This deduction shall be allowed in an
493 amount not to exceed twenty percent (20%) of the net income. Such
494 contributions or gifts shall be allowable as deductions only if
495 verified under rules and regulations prescribed by the
496 commissioner, with the approval of the Governor. Contributions
497 made in any form other than cash shall be allowed as a deduction,
498 subject to the limitations herein provided, in an amount equal to
499 the actual market value of the contributions at the time the
500 contribution is actually made and consummated.



501 (i) **Reserve funds - insurance companies.** In the case
502 of insurance companies the net additions required by law to be
503 made within the taxable year to reserve funds when such reserve
504 funds are maintained for the purpose of liquidating policies at
505 maturity.

506 (j) **Annuity income.** The sums, other than dividends,
507 paid within the taxpayer year on policy or annuity contracts when
508 such income has been included in gross income.

509 (k) **Contributions to employee pension plans.**
510 Contributions made by an employer to a plan or a trust forming
511 part of a pension plan, stock bonus plan, disability or
512 death-benefit plan, or profit-sharing plan of such employer for
513 the exclusive benefit of some or all of his, their, or its
514 employees, or their beneficiaries, shall be deductible from his,
515 their, or its income only to the extent that, and for the taxable
516 year in which, the contribution is deductible for federal income
517 tax purposes under the Internal Revenue Code of 1986 and any other
518 provisions of similar purport in the Internal Revenue Laws of the
519 United States, and the rules, regulations, rulings and
520 determinations promulgated thereunder, provided that:

521 (i) The plan or trust be irrevocable.

522 (ii) The plan or trust constitute a part of a
523 pension plan, stock bonus plan, disability or death-benefit plan,
524 or profit-sharing plan for the exclusive benefit of some or all of
525 the employer's employees and/or officers, or their beneficiaries,



for the purpose of distributing the corpus and income of the plan or trust to such employees and/or officers, or their beneficiaries.

(iii) No part of the corpus or income of the plan or trust can be used for purposes other than for the exclusive benefit of employees and/or officers, or their beneficiaries.

Contributions to all plans or to all trusts of real or personal property (or real and personal property combined) or to insured plans created under a retirement plan for which provision has been made under the laws of the United States of America, making such contributions deductible from income for federal income tax purposes, shall be deductible only to the same extent under the Income Tax Laws of the State of Mississippi.

(1) **Net operating loss carrybacks and carryovers.** A net operating loss for any taxable year ending after December 31, 1993, and taxable years thereafter, shall be a net operating loss carryback to each of the three (3) taxable years preceding the taxable year of the loss. If the net operating loss for any taxable year is not exhausted by carrybacks to the three (3) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the fifteen (15) taxable years following the taxable year of the loss beginning with any taxable year after December 31, 1991.

For any taxable year ending after December 31, 1997, the period for net operating loss carrybacks and net operating loss



551 carryovers shall be the same as those established by the Internal
552 Revenue Code and the rules, regulations, rulings and
553 determinations promulgated thereunder as in effect at the taxable
554 year end or on December 31, 2000, whichever is earlier.

555 A net operating loss for any taxable year ending after
556 December 31, 2001, and taxable years thereafter, shall be a net
557 operating loss carryback to each of the two (2) taxable years
558 preceding the taxable year of the loss. If the net operating loss
559 for any taxable year is not exhausted by carrybacks to the two (2)
560 taxable years preceding the taxable year of the loss, then there
561 shall be a net operating loss carryover to each of the twenty (20)
562 taxable years following the taxable year of the loss beginning
563 with any taxable year after the taxable year of the loss.

564 The term "net operating loss," for the purposes of this
565 paragraph, shall be the excess of the deductions allowed over the
566 gross income; provided, however, the following deductions shall
567 not be allowed in computing same:

568 (i) No net operating loss deduction shall be
569 allowed.

570 (ii) No personal exemption deduction shall be
571 allowed.

572 (iii) Allowable deductions which are not
573 attributable to taxpayer's trade or business shall be allowed only
574 to the extent of the amount of gross income not derived from such
575 trade or business.



Any taxpayer entitled to a carryback period as provided by this paragraph may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year ending after December 31, 1991. The election shall be made in the manner prescribed by the Department of Revenue and shall be made by the due date, including extensions of time, for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. The election, once made for any taxable year, shall be irrevocable for that taxable year.

(m) **Amortization of pollution or environmental control facilities.** Allowance of deduction. Every taxpayer, at his election, shall be entitled to a deduction for pollution or environmental control facilities to the same extent as that allowed under the Internal Revenue Code and the rules, regulations, rulings and determinations promulgated thereunder.

(n) **Dividend distributions - real estate investment trusts.** "Real estate investment trust" (hereinafter referred to as REIT) shall have the meaning ascribed to such term in Section 856 of the federal Internal Revenue Code of 1986, as amended. A REIT is allowed a dividend distributed deduction if the dividend distributions meet the requirements of Section 857 or are otherwise deductible under Section 858 or 860, federal Internal Revenue Code of 1986, as amended. In addition:

(i) A dividend distributed deduction shall only be allowed for dividends paid by a publicly traded REIT. A qualified



601 REIT subsidiary shall be allowed a dividend distributed deduction
602 if its owner is a publicly traded REIT.

603 (ii) Income generated from real estate contributed
604 or sold to a REIT by a shareholder or related party shall not give
605 rise to a dividend distributed deduction, unless the shareholder
606 or related party would have received the dividend distributed
607 deduction under this chapter.

608 (iii) A holding corporation receiving a dividend
609 from a REIT shall not be allowed the deduction in Section
610 27-7-15(4) (t).

611 (iv) Any REIT not allowed the dividend distributed
612 deduction in the federal Internal Revenue Code of 1986, as
613 amended, shall not be allowed a dividend distributed deduction
614 under this chapter.

615 The commissioner is authorized to promulgate rules and
616 regulations consistent with the provisions in Section 269 of the
617 federal Internal Revenue Code of 1986, as amended, so as to
618 prevent the evasion or avoidance of state income tax.

619 (o) **Contributions to college savings trust fund**
620 **accounts.** Contributions or payments to a Mississippi Affordable
621 College Savings Program account are deductible as provided under
622 Section 37-155-113. Payments made under a prepaid tuition
623 contract entered into under the Mississippi Prepaid Affordable
624 College Tuition Program are deductible as provided under Section
625 37-155-17.



(p) **Contributions of human pharmaceutical products.** To the extent that a "major supplier" as defined in Section 27-13-13(2)(d) contributes human pharmaceutical products in excess of Two Hundred Fifty Million Dollars (\$250,000,000.00) as determined under Section 170 of the Internal Revenue Code, the charitable contribution limitation associated with those donations shall follow the federal limitation but cannot result in the Mississippi net income being reduced below zero.

(q) **Contributions to ABLE trust fund accounts.** Contributions or payments to a Mississippi Achieving a Better Life Experience (ABLE) Program account are deductible as provided under Section 43-28-13.

(2) **Restrictions on the deductibility of certain intangible expenses and interest expenses with a related member.**

(a) As used in this subsection (2):

(i) "Intangible expenses and costs" include:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income under this chapter;

2. Expenses or losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;



651 3. Royalty, patent, technical and copyright
652 fees;

653 4. Licensing fees; and

654 5. Other similar expenses and costs.

655 (ii) "Intangible property" means patents, patent
656 applications, trade names, trademarks, service marks, copyrights
657 and similar types of intangible assets.

658 (iii) "Interest expenses and cost" means amounts
659 directly or indirectly allowed as deductions for purposes of
660 determining taxable income under this chapter to the extent such
661 interest expenses and costs are directly or indirectly for,
662 related to, or in connection with the direct or indirect
663 acquisition, maintenance, management, ownership, sale, exchange or
664 disposition of intangible property.

665 (iv) "Related member" means an entity or person
666 that, with respect to the taxpayer during all or any portion of
667 the taxable year, is a related entity, a component member as
668 defined in the Internal Revenue Code, or is an entity or a person
669 to or from whom there is attribution of stock ownership in
670 accordance with Section 1563(e) of the Internal Revenue Code.

671 (v) "Related entity" means:

672 1. A stockholder who is an individual or a
673 member of the stockholder's family, as defined in regulations
674 prescribed by the commissioner, if the stockholder and the members
675 of the stockholder's family own, directly, indirectly,



676 beneficially or constructively, in the aggregate, at least fifty
677 percent (50%) of the value of the taxpayer's outstanding stock;

678 2. A stockholder, or a stockholder's
679 partnership, limited liability company, estate, trust or
680 corporation, if the stockholder and the stockholder's
681 partnerships, limited liability companies, estates, trusts and
682 corporations own, directly, indirectly, beneficially or
683 constructively, in the aggregate, at least fifty percent (50%) of
684 the value of the taxpayer's outstanding stock;

685 3. A corporation, or a party related to the
686 corporation in a manner that would require an attribution of stock
687 from the corporation to the party or from the party to the
688 corporation, if the taxpayer owns, directly, indirectly,
689 beneficially or constructively, at least fifty percent (50%) of
690 the value of the corporation's outstanding stock under regulation
691 prescribed by the commissioner;

692 4. Any entity or person which would be a
693 related member under this section if the taxpayer were considered
694 a corporation for purposes of this section.

695 (b) In computing net income, a taxpayer shall add back
696 otherwise deductible interest expenses and costs and intangible
697 expenses and costs directly or indirectly paid, accrued to or
698 incurred, in connection directly or indirectly with one or more
699 direct or indirect transactions with one or more related members.



(c) The adjustments required by this subsection shall not apply to such portion of interest expenses and costs and intangible expenses and costs that the taxpayer can establish meets one (1) of the following:

(i) The related member directly or indirectly paid, accrued or incurred such portion to a person during the same income year who is not a related member; or

(ii) The transaction giving rise to the interest expenses and costs or intangible expenses and costs between the taxpayer and related member was done primarily for a valid business purpose other than the avoidance of taxes, and the related member is not primarily engaged in the acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property.

(d) Nothing in this subsection shall require a taxpayer to add to its net income more than once any amount of interest expenses and costs or intangible expenses and costs that the taxpayer pays, accrues or incurs to a related member.

(e) The commissioner may prescribe such regulations as necessary or appropriate to carry out the purposes of this subsection, including, but not limited to, clarifying definitions of terms, rules of stock attribution, factoring and discount transactions.

(3) Individual nonbusiness deductions.



724 (a) The amount allowable for individual nonbusiness
725 itemized deductions for federal income tax purposes where the
726 individual is eligible to elect, for the taxable year, to itemize
727 deductions on his federal return except the following:

728 (i) The deduction for state income taxes paid or
729 other taxes allowed for federal purposes in lieu of state income
730 taxes paid;

731 (ii) The deduction for gaming losses from gaming
732 establishments;

733 (iii) The deduction for taxes collected by
734 licensed gaming establishments pursuant to Section 27-7-901;

735 (iv) The deduction for taxes collected by gaming
736 establishments pursuant to Section 27-7-903.

737 (b) In lieu of the individual nonbusiness itemized
738 deductions authorized in paragraph (a), for all purposes other
739 than ordinary and necessary expenses paid or incurred during the
740 taxable year in carrying on any trade or business, an optional
741 standard deduction of:

742 (i) Three Thousand Four Hundred Dollars
743 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
744 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
745 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
746 in the case of married individuals filing a joint or combined
747 return;



748 (ii) One Thousand Seven Hundred Dollars
749 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
750 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
751 Three Hundred Dollars (\$2,300.00) for each calendar year
752 thereafter in the case of married individuals filing separate
753 returns;

754 (iii) Three Thousand Four Hundred Dollars
755 (\$3,400.00) in the case of a head of family; or

756 (iv) Two Thousand Three Hundred Dollars
757 (\$2,300.00) in the case of an individual who is not married.

758 In the case of a husband and wife living together, having
759 separate incomes, and filing combined returns, the standard
760 deduction authorized may be divided in any manner they choose. In
761 the case of separate returns by a husband and wife, the standard
762 deduction shall not be allowed to either if the taxable income of
763 one of the spouses is determined without regard to the standard
764 deduction.

765 (c) A nonresident individual shall be allowed the same
766 individual nonbusiness deductions as are authorized for resident
767 individuals in paragraph (a) or (b) of this subsection; however,
768 the nonresident individual is entitled only to that proportion of
769 the individual nonbusiness deductions as his net income from
770 sources within the State of Mississippi bears to his total or
771 entire net income from all sources.



(4) Nothing in this section shall permit the same item to be deducted more than once, either in fact or in effect.

(5) Notwithstanding any other provision in Title 27, Mississippi Code of 1972, there shall be allowed an income tax deduction for otherwise deductible expenses if:

(a) The payment(s) for such deductible expenses are made with the grant or loan program of the Paycheck Protection Program as authorized under (i) the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Consolidated Appropriations Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan Program, (iii) the 2020 COVID-19 Mississippi Business Assistance Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered Venue Operators Grant Program and Restaurant Revitalization Fund authorized by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, and amended by the federal American Rescue Plan Act, and/or (vi) the Mississippi Agriculture Stabilization Act; and

(b) Such deductible expenses shall be allowed as deductions for federal income tax purposes.

[From and after February 2, 2022, this section shall read as follows:]

27-7-17. In computing taxable income, there shall be allowed as deductions:

(1) **Business deductions.**



796 (a) **Business expenses.** All the ordinary and necessary
797 expenses paid or incurred during the taxable year in carrying on
798 any trade or business, including a reasonable allowance for
799 salaries or other compensation for personal services actually
800 rendered; nonreimbursable traveling expenses incident to current
801 employment, including a reasonable amount expended for meals and
802 lodging while away from home in the pursuit of a trade or
803 business; and rentals or other payments required to be made as a
804 condition of the continued use or possession, for purposes of the
805 trade or business of property to which the taxpayer has not taken
806 or is not taking title or in which he had no equity. Expense
807 incurred in connection with earning and distributing nontaxable
808 income is not an allowable deduction. Limitations on
809 entertainment expenses shall conform to the provisions of the
810 Internal Revenue Code of 1986. There shall also be allowed a
811 deduction for expenses as provided in Section 26 of Senate Bill
812 No. 2095, 2022 Regular Session.

813 (b) **Interest.** All interest paid or accrued during the
814 taxable year on business indebtedness, except interest upon the
815 indebtedness for the purchase of tax-free bonds, or any stocks,
816 the dividends from which are nontaxable under the provisions of
817 this article; provided, however, in the case of securities
818 dealers, interest payments or accruals on loans, the proceeds of
819 which are used to purchase tax-exempt securities, shall be
820 deductible if income from otherwise tax-free securities is



821 reported as income. Investment interest expense shall be limited
822 to investment income. Interest expense incurred for the purchase
823 of treasury stock, to pay dividends, or incurred as a result of an
824 undercapitalized affiliated corporation may not be deducted unless
825 an ordinary and necessary business purpose can be established to
826 the satisfaction of the commissioner. For the purposes of this
827 paragraph, the phrase "interest upon the indebtedness for the
828 purchase of tax-free bonds" applies only to the indebtedness
829 incurred for the purpose of directly purchasing tax-free bonds and
830 does not apply to any other indebtedness incurred in the regular
831 course of the taxpayer's business. Any corporation, association,
832 organization or other entity taxable under Section 27-7-23(c)
833 shall allocate interest expense as provided in Section
834 27-7-23(c) (3) (I).

835 (c) **Taxes.** Taxes paid or accrued within the taxable
836 year, except state and federal income taxes, excise taxes based on
837 or measured by net income, estate and inheritance taxes, gift
838 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
839 use taxes unless incurred as an item of expense in a trade or
840 business or in the production of taxable income. In the case of
841 an individual, taxes permitted as an itemized deduction under the
842 provisions of subsection (3) (a) of this section are to be claimed
843 thereunder.

844 (d) **Business losses.**



(i) Losses sustained during the taxable year not compensated for by insurance or otherwise, if incurred in trade or business, or nonbusiness transactions entered into for profit.

(ii) Limitations on losses from passive activities and rental real estate shall conform to the provisions of the Internal Revenue Code of 1986.

(e) **Bad debts.** Losses from debts ascertained to be worthless and charged off during the taxable year, if sustained in the conduct of the regular trade or business of the taxpayer; provided, that such losses shall be allowed only when the taxpayer has reported as income, on the accrual basis, the amount of such debt or account.

(f) **Depreciation.** A reasonable allowance for exhaustion, wear and tear of property used in the trade or business, or rental property, and depreciation upon buildings based upon their reasonable value as of March 16, 1912, if acquired prior thereto, and upon cost if acquired subsequent to that date. In the case of new or used aircraft, equipment, engines, or other parts and tools used for aviation, allowance for bonus depreciation conforms with the federal bonus depreciation rates and reasonable allowance for depreciation under this section is no less than one hundred percent (100%).

(g) **Depletion.** In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, based upon



870 cost, including cost of development, not otherwise deducted, or
871 fair market value as of March 16, 1912, if acquired prior to that
872 date, such allowance to be made upon regulations prescribed by the
873 commissioner, with the approval of the Governor.

874 (h) **Contributions or gifts.** Except as otherwise
875 provided in paragraph (p) of this subsection or subsection (3)(a)
876 of this section for individuals, contributions or gifts made by
877 corporations within the taxable year to corporations,
878 organizations, associations or institutions, including Community
879 Chest funds, foundations and trusts created solely and exclusively
880 for religious, charitable, scientific or educational purposes, or
881 for the prevention of cruelty to children or animals, no part of
882 the net earnings of which inure to the benefit of any private
883 stockholder or individual. This deduction shall be allowed in an
884 amount not to exceed twenty percent (20%) of the net income. Such
885 contributions or gifts shall be allowable as deductions only if
886 verified under rules and regulations prescribed by the
887 commissioner, with the approval of the Governor. Contributions
888 made in any form other than cash shall be allowed as a deduction,
889 subject to the limitations herein provided, in an amount equal to
890 the actual market value of the contributions at the time the
891 contribution is actually made and consummated.

892 (i) **Reserve funds - insurance companies.** In the case
893 of insurance companies the net additions required by law to be
894 made within the taxable year to reserve funds when such reserve



895 funds are maintained for the purpose of liquidating policies at
896 maturity.

897 (j) **Annuity income.** The sums, other than dividends,
898 paid within the taxpayer year on policy or annuity contracts when
899 such income has been included in gross income.

900 (k) **Contributions to employee pension plans.**
901 Contributions made by an employer to a plan or a trust forming
902 part of a pension plan, stock bonus plan, disability or
903 death-benefit plan, or profit-sharing plan of such employer for
904 the exclusive benefit of some or all of his, their, or its
905 employees, or their beneficiaries, shall be deductible from his,
906 their, or its income only to the extent that, and for the taxable
907 year in which, the contribution is deductible for federal income
908 tax purposes under the Internal Revenue Code of 1986 and any other
909 provisions of similar purport in the Internal Revenue Laws of the
910 United States, and the rules, regulations, rulings and
911 determinations promulgated thereunder, provided that:

912 (i) The plan or trust be irrevocable.

913 (ii) The plan or trust constitute a part of a
914 pension plan, stock bonus plan, disability or death-benefit plan,
915 or profit-sharing plan for the exclusive benefit of some or all of
916 the employer's employees and/or officers, or their beneficiaries,
917 for the purpose of distributing the corpus and income of the plan
918 or trust to such employees and/or officers, or their
919 beneficiaries.



920 (iii) No part of the corpus or income of the plan
921 or trust can be used for purposes other than for the exclusive
922 benefit of employees and/or officers, or their beneficiaries.

923 Contributions to all plans or to all trusts of real or
924 personal property (or real and personal property combined) or to
925 insured plans created under a retirement plan for which provision
926 has been made under the laws of the United States of America,
927 making such contributions deductible from income for federal
928 income tax purposes, shall be deductible only to the same extent
929 under the Income Tax Laws of the State of Mississippi.

930 (1) **Net operating loss carrybacks and carryovers.** A
931 net operating loss for any taxable year ending after December 31,
932 1993, and taxable years thereafter, shall be a net operating loss
933 carryback to each of the three (3) taxable years preceding the
934 taxable year of the loss. If the net operating loss for any
935 taxable year is not exhausted by carrybacks to the three (3)
936 taxable years preceding the taxable year of the loss, then there
937 shall be a net operating loss carryover to each of the fifteen
938 (15) taxable years following the taxable year of the loss
939 beginning with any taxable year after December 31, 1991.

940 For any taxable year ending after December 31, 1997, the
941 period for net operating loss carrybacks and net operating loss
942 carryovers shall be the same as those established by the Internal
943 Revenue Code and the rules, regulations, rulings and



determinations promulgated thereunder as in effect at the taxable year end or on December 31, 2000, whichever is earlier.

A net operating loss for any taxable year ending after December 31, 2001, and taxable years thereafter, shall be a net operating loss carryback to each of the two (2) taxable years preceding the taxable year of the loss. If the net operating loss for any taxable year is not exhausted by carrybacks to the two (2) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the twenty (20) taxable years following the taxable year of the loss beginning with any taxable year after the taxable year of the loss.

The term "net operating loss," for the purposes of this paragraph, shall be the excess of the deductions allowed over the gross income; provided, however, the following deductions shall not be allowed in computing same:

(i) No net operating loss deduction shall be allowed.

(ii) No personal exemption deduction shall be allowed.

(iii) Allowable deductions which are not attributable to taxpayer's trade or business shall be allowed only to the extent of the amount of gross income not derived from such trade or business.

Any taxpayer entitled to a carryback period as provided by this paragraph may elect to relinquish the entire carryback period



with respect to a net operating loss for any taxable year ending after December 31, 1991. The election shall be made in the manner prescribed by the Department of Revenue and shall be made by the due date, including extensions of time, for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. The election, once made for any taxable year, shall be irrevocable for that taxable year.

(m) **Amortization of pollution or environmental control facilities.** Allowance of deduction. Every taxpayer, at his election, shall be entitled to a deduction for pollution or environmental control facilities to the same extent as that allowed under the Internal Revenue Code and the rules, regulations, rulings and determinations promulgated thereunder.

(n) **Dividend distributions - real estate investment trusts.** "Real estate investment trust" (hereinafter referred to as REIT) shall have the meaning ascribed to such term in Section 856 of the federal Internal Revenue Code of 1986, as amended. A REIT is allowed a dividend distributed deduction if the dividend distributions meet the requirements of Section 857 or are otherwise deductible under Section 858 or 860, federal Internal Revenue Code of 1986, as amended. In addition:

(i) A dividend distributed deduction shall only be allowed for dividends paid by a publicly traded REIT. A qualified REIT subsidiary shall be allowed a dividend distributed deduction if its owner is a publicly traded REIT.



(ii) Income generated from real estate contributed or sold to a REIT by a shareholder or related party shall not give rise to a dividend distributed deduction, unless the shareholder or related party would have received the dividend distributed deduction under this chapter.

(iii) A holding corporation receiving a dividend from a REIT shall not be allowed the deduction in Section 27-7-15(4)(t).

(iv) Any REIT not allowed the dividend distributed deduction in the federal Internal Revenue Code of 1986, as amended, shall not be allowed a dividend distributed deduction under this chapter.

The commissioner is authorized to promulgate rules and regulations consistent with the provisions in Section 269 of the federal Internal Revenue Code of 1986, as amended, so as to prevent the evasion or avoidance of state income tax.

(o) **Contributions to college savings trust fund accounts.** Contributions or payments to a Mississippi Affordable College Savings Program account are deductible as provided under Section 37-155-113. Payments made under a prepaid tuition contract entered into under the Mississippi Prepaid Affordable College Tuition Program are deductible as provided under Section 37-155-17.

(p) **Contributions of human pharmaceutical products.** To the extent that a "major supplier" as defined in Section



27-13-13(2) (d) contributes human pharmaceutical products in excess of Two Hundred Fifty Million Dollars (\$250,000,000.00) as determined under Section 170 of the Internal Revenue Code, the charitable contribution limitation associated with those donations shall follow the federal limitation but cannot result in the Mississippi net income being reduced below zero.

(q) **Contributions to ABLE trust fund accounts.**

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

(2) **Restrictions on the deductibility of certain intangible expenses and interest expenses with a related member.**

(a) As used in this subsection (2):

(i) "Intangible expenses and costs" include:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income under this chapter;

2. Expenses or losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;

3. Royalty, patent, technical and copyright fees;



1044 4. Licensing fees; and
1045 5. Other similar expenses and costs.

1046 (ii) "Intangible property" means patents, patent
1047 applications, trade names, trademarks, service marks, copyrights
1048 and similar types of intangible assets.

1049 (iii) "Interest expenses and cost" means amounts
1050 directly or indirectly allowed as deductions for purposes of
1051 determining taxable income under this chapter to the extent such
1052 interest expenses and costs are directly or indirectly for,
1053 related to, or in connection with the direct or indirect
1054 acquisition, maintenance, management, ownership, sale, exchange or
1055 disposition of intangible property.

1056 (iv) "Related member" means an entity or person
1057 that, with respect to the taxpayer during all or any portion of
1058 the taxable year, is a related entity, a component member as
1059 defined in the Internal Revenue Code, or is an entity or a person
1060 to or from whom there is attribution of stock ownership in
1061 accordance with Section 1563(e) of the Internal Revenue Code.

1062 (v) "Related entity" means:

1063 1. A stockholder who is an individual or a
1064 member of the stockholder's family, as defined in regulations
1065 prescribed by the commissioner, if the stockholder and the members
1066 of the stockholder's family own, directly, indirectly,
1067 beneficially or constructively, in the aggregate, at least fifty
1068 percent (50%) of the value of the taxpayer's outstanding stock;



1069 2. A stockholder, or a stockholder's
1070 partnership, limited liability company, estate, trust or
1071 corporation, if the stockholder and the stockholder's
1072 partnerships, limited liability companies, estates, trusts and
1073 corporations own, directly, indirectly, beneficially or
1074 constructively, in the aggregate, at least fifty percent (50%) of
1075 the value of the taxpayer's outstanding stock;

1076 3. A corporation, or a party related to the
1077 corporation in a manner that would require an attribution of stock
1078 from the corporation to the party or from the party to the
1079 corporation, if the taxpayer owns, directly, indirectly,
1080 beneficially or constructively, at least fifty percent (50%) of
1081 the value of the corporation's outstanding stock under regulation
1082 prescribed by the commissioner;

1083 4. Any entity or person which would be a
1084 related member under this section if the taxpayer were considered
1085 a corporation for purposes of this section.

1086 (b) In computing net income, a taxpayer shall add back
1087 otherwise deductible interest expenses and costs and intangible
1088 expenses and costs directly or indirectly paid, accrued to or
1089 incurred, in connection directly or indirectly with one or more
1090 direct or indirect transactions with one or more related members.

1091 (c) The adjustments required by this subsection shall
1092 not apply to such portion of interest expenses and costs and



1093 intangible expenses and costs that the taxpayer can establish
1094 meets one (1) of the following:

1095 (i) The related member directly or indirectly
1096 paid, accrued or incurred such portion to a person during the same
1097 income year who is not a related member; or

1098 (ii) The transaction giving rise to the interest
1099 expenses and costs or intangible expenses and costs between the
1100 taxpayer and related member was done primarily for a valid
1101 business purpose other than the avoidance of taxes, and the
1102 related member is not primarily engaged in the acquisition, use,
1103 maintenance or management, ownership, sale, exchange or any other
1104 disposition of intangible property.

1105 (d) Nothing in this subsection shall require a taxpayer
1106 to add to its net income more than once any amount of interest
1107 expenses and costs or intangible expenses and costs that the
1108 taxpayer pays, accrues or incurs to a related member.

1109 (e) The commissioner may prescribe such regulations as
1110 necessary or appropriate to carry out the purposes of this
1111 subsection, including, but not limited to, clarifying definitions
1112 of terms, rules of stock attribution, factoring and discount
1113 transactions.

1114 (3) **Individual nonbusiness deductions.**

1115 (a) The amount allowable for individual nonbusiness
1116 itemized deductions for federal income tax purposes where the



1117 individual is eligible to elect, for the taxable year, to itemize
1118 deductions on his federal return except the following:

1119 (i) The deduction for state income taxes paid or
1120 other taxes allowed for federal purposes in lieu of state income
1121 taxes paid;

1122 (ii) The deduction for gaming losses from gaming
1123 establishments;

1124 (iii) The deduction for taxes collected by
1125 licensed gaming establishments pursuant to Section 27-7-901;

1126 (iv) The deduction for taxes collected by gaming
1127 establishments pursuant to Section 27-7-903.

1128 (b) In lieu of the individual nonbusiness itemized
1129 deductions authorized in paragraph (a), for all purposes other
1130 than ordinary and necessary expenses paid or incurred during the
1131 taxable year in carrying on any trade or business, an optional
1132 standard deduction of:

1133 (i) Three Thousand Four Hundred Dollars
1134 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
1135 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
1136 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
1137 in the case of married individuals filing a joint or combined
1138 return;

1139 (ii) One Thousand Seven Hundred Dollars
1140 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
1141 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand



1142 Three Hundred Dollars (\$2,300.00) for each calendar year
1143 thereafter in the case of married individuals filing separate
1144 returns;

1145 (iii) Three Thousand Four Hundred Dollars
1146 (\$3,400.00) in the case of a head of family; or

1147 (iv) Two Thousand Three Hundred Dollars
1148 (\$2,300.00) in the case of an individual who is not married.

1149 In the case of a husband and wife living together, having
1150 separate incomes, and filing combined returns, the standard
1151 deduction authorized may be divided in any manner they choose. In
1152 the case of separate returns by a husband and wife, the standard
1153 deduction shall not be allowed to either if the taxable income of
1154 one of the spouses is determined without regard to the standard
1155 deduction.

1156 (c) A nonresident individual shall be allowed the same
1157 individual nonbusiness deductions as are authorized for resident
1158 individuals in paragraph (a) or (b) of this subsection; however,
1159 the nonresident individual is entitled only to that proportion of
1160 the individual nonbusiness deductions as his net income from
1161 sources within the State of Mississippi bears to his total or
1162 entire net income from all sources.

1163 (4) Nothing in this section shall permit the same item to be
1164 deducted more than once, either in fact or in effect.



1165 (5) Notwithstanding any other provision in Title 27,
1166 Mississippi Code of 1972, there shall be allowed an income tax
1167 deduction for otherwise deductible expenses if:

1168 (a) The payment(s) for such deductible expenses are
1169 made with the grant or loan program of the Paycheck Protection
1170 Program as authorized under (i) the Coronavirus Aid, Relief, and
1171 Economic Security (CARES) Act and the Consolidated Appropriations
1172 Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan
1173 Program, (iii) the 2020 COVID-19 Mississippi Business Assistance
1174 Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered
1175 Venue Operators Grant Program and Restaurant Revitalization Fund
1176 authorized by the Economic Aid to Hard-Hit Small Businesses,
1177 Nonprofits, and Venues Act, and amended by the federal American
1178 Rescue Plan Act, and/or (vi) the Mississippi Agriculture
1179 Stabilization Act; and

1180 (b) Such deductible expenses shall be allowed as
1181 deductions for federal income tax purposes.

1182 **SECTION 5.** Sections 1 and 3 of this act shall be codified as
1183 new sections in Chapter 7, Title 27, Mississippi Code of 1972.

1184 **SECTION 6.** Nothing in this act shall affect or defeat any
1185 claim, assessment, appeal, suit, right or cause of action for
1186 taxes due or accrued under the income tax laws, insurance premium
1187 tax laws or ad valorem tax laws before the date on which this act
1188 becomes effective, whether such claims, assessments, appeals,
1189 suits or actions have been begun before the date on which this act



1190 becomes effective or are begun thereafter; and the provisions of
1191 the income tax laws, insurance premium tax laws and ad valorem tax
1192 laws are expressly continued in full force, effect and operation
1193 for the purpose of the assessment, collection and enrollment of
1194 liens for any taxes due or accrued and the execution of any
1195 warrant under such laws before the date on which this act becomes
1196 effective, and for the imposition of any penalties, forfeitures or
1197 claims for failure to comply with such laws.

1198 **SECTION 7.** Section 4 of this act shall take effect and be in
1199 force from and after January 1, 2020. Section 2 of this act shall
1200 take effect and be in force from and after January 1, 2023. The
1201 remainder of this act shall take effect and be in force from and
1202 after January 1, 2022.

