

By: Representative Lamar

To: Ways and Means

HOUSE BILL NO. 1529

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 GRANTS UNDER THE
 4 SHUTTERED VENUE OPERATORS GRANT PROGRAM AND RESTAURANT
 5 REVITALIZATION FUND AUTHORIZED BY THE ECONOMIC AID TO HARD-HIT
 6 SMALL BUSINESSES, NONPROFITS, AND VENUES ACT, AND AMENDED BY THE
 7 FEDERAL AMERICAN RESCUE PLAN ACT; TO EXCLUDE AMOUNTS RECEIVED AS
 8 GRANTS UNDER THE MISSISSIPPI AGRICULTURE STABILIZATION ACT; TO
 9 AMEND SECTION 27-7-17, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
 10 INCOME TAX DEDUCTIONS FOR OTHERWISE DEDUCTIBLE EXPENSES THAT WERE
 11 ALLOWED AS DEDUCTIONS UNDER SECTION 57-121-7; TO AUTHORIZE INCOME
 12 TAX DEDUCTIONS FOR OTHERWISE DEDUCTIBLE EXPENSES IF PAYMENT FOR
 13 SUCH EXPENSES IS MADE WITH THE GRANT OR LOAN PROGRAM OF THE
 14 SHUTTERED VENUE OPERATORS GRANT PROGRAM AND RESTAURANT
 15 REVITALIZATION FUND AUTHORIZED BY THE ECONOMIC AID TO HARD-HIT
 16 SMALL BUSINESSES, NONPROFITS, AND VENUES ACT, AND AMENDED BY THE
 17 FEDERAL AMERICAN RESCUE PLAN ACT OR THE MISSISSIPPI AGRICULTURE
 18 STABILIZATION ACT; TO AMEND SECTION 57-121-7, MISSISSIPPI CODE OF
 19 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
 20 PURPOSES.

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

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

24 27-7-15. (1) For the purposes of this article, except as
 25 otherwise provided, the term "gross income" means and includes the
 26 income of a taxpayer derived from salaries, wages, fees or
 27 compensation for service, of whatever kind and in whatever form



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

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

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

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

50 (i) Prior to January 1, 2001, federal rules,
51 regulations and revenue procedures shall be followed with respect
52 to installment sales except they shall be applied and administered



53 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
54 106th Congress, had not been enacted. This provision will
55 generally affect taxpayers, reporting on the accrual method of
56 accounting, entering into installment note agreements on or after
57 December 17, 1999. Any gain or profit resulting from the casual
58 sale of property will be recognized in the year of sale.

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



77 then all deferred tax payments under this section shall
78 immediately become due and payable.

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

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

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



102 exchanges or payment for services, or require consolidated returns
103 of affiliates.

104 (e) **Alimony and separate maintenance payments.** The
105 federal rules, regulations and revenue procedures in determining
106 the deductibility and taxability of alimony payments shall be
107 followed in this state.

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

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

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

119 (a) The proceeds of life insurance policies and
120 contracts paid upon the death of the insured. However, the income
121 from the proceeds of such policies or contracts shall be included
122 in the gross income.

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



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

130 (d) Interest upon the obligations of the United States
131 or its possessions, or securities issued under the provisions of
132 the Federal Farm Loan Act of 1916, or bonds issued by the War
133 Finance Corporation, or obligations of the State of Mississippi or
134 political subdivisions thereof.

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

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

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



152 state shall determine Mississippi income on the same basis as
153 provided for foreign corporations under the provisions of this
154 article.

155 (h) In case of insurance companies, there shall be
156 excluded from gross income such portion of actual premiums
157 received from an individual policyholder as is paid back or
158 credited to or treated as an abatement of premiums of such
159 policyholder within the taxable year.

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

164 (j) Amounts paid by the United States to a person as
165 added compensation for hazardous duty pay as a member of the Armed
166 Forces of the United States in a combat zone designated by
167 Executive Order of the President of the United States.

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



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

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

190 (m) National Guard or Reserve Forces of the United
191 States compensation not to exceed the aggregate sum of Five
192 Thousand Dollars (\$5,000.00) for any taxable year through the 2005
193 taxable year, and not to exceed the aggregate sum of Fifteen
194 Thousand Dollars (\$15,000.00) for any taxable year thereafter.

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



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

208 (o) The proceeds received from federal and state
209 forestry incentive programs.

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

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

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



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

231 (s) Amounts paid by the Mississippi Soil and Water
232 Conservation Commission from the Mississippi Soil and Water
233 Cost-Share Program for the installation of water quality best
234 management practices.

235 (t) Dividends received by a holding corporation, as
236 defined in Section 27-13-1, from a subsidiary corporation, as
237 defined in Section 27-13-1.

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

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

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



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

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

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

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

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



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

279 (cc) Amounts received as a "qualified Hurricane Katrina
280 distribution" as defined in the United States Internal Revenue
281 Code, as amended.

282 (dd) Amounts received by an individual which may be
283 excluded from income as foreign earned income for federal income
284 tax purposes.

285 (ee) Amounts received by a qualified individual,
286 directly or indirectly, from an employer or nonprofit housing
287 organization that are qualified housing expenses associated with
288 an employer-assisted housing program. For purposes of this
289 paragraph (ee):

290 (i) "Qualified individual" means any individual
291 whose household income does not exceed one hundred twenty percent
292 (120%) of the area median gross income (as defined by the United
293 States Department of Housing and Urban Development), adjusted for
294 household size, for the area in which the housing is located.

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

- 299 1. Homeownership education or counseling;
300 2. The development of affordable housing; or



301 3. The development or administration of
302 employer-assisted housing programs.

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

309 (iv) "Qualified housing expenses" means:

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

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

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



326 Retirement Account to a Roth Individual Retirement Account. The
327 exemption allowed under this paragraph (ff) shall be available to
328 the spouse or other beneficiary at the death of the primary
329 retiree.

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

332 (hh) The amount deposited in a catastrophe savings
333 account established under Sections 27-7-1001 through 27-7-1007,
334 interest income earned on the catastrophe savings account, and
335 distributions from the catastrophe savings account; however, any
336 amount withdrawn from a catastrophe savings account for purposes
337 other than paying qualified catastrophe expenses shall be included
338 in gross income, except as otherwise provided by Sections
339 27-7-1001 through 27-7-1007.

340 (ii) Interest, dividends, gains or income of any kind
341 on any account in the Mississippi Achieving a Better Life
342 Experience (ABLE) Trust Fund, as established in Chapter 28, Title
343 43, to the extent that such amounts remain on deposit in the ABLE
344 Trust Fund or are withdrawn pursuant to a qualified withdrawal, as
345 defined in Section 43-28-11.

346 (jj) Subject to the limitations provided under Section
347 27-7-1103, amounts deposited into a first-time homebuyer savings
348 account and any interest or other income earned attributable to an
349 account and monies or funds withdrawn or distributed from an
350 account for the payment of eligible costs by or on behalf of a



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

359 (kk) Amounts paid by an agricultural disaster program
360 as compensation to an agricultural producer, cattle farmer or
361 cattle rancher who has suffered a loss as the result of a disaster
362 or emergency, including, but not limited to, the following United
363 States Department of Agriculture programs:

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



376 (ll) Amounts received as advances and/or grants under
377 the federal Coronavirus Aid, Relief, and Economic Security Act,
378 the Consolidated Appropriations Act of 2021 and the American
379 Rescue Plan Act.

380 (mm) Any and all cancelled indebtedness provided for
381 under the Coronavirus Aid, Relief, and Economic Security Act and
382 the Consolidated Appropriations Act of 2021.

383 (nn) Amounts received as payments under Section
384 27-3-85.

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

387 (pp) Amounts received as grants under Section 57-1-521.

388 (rr) Amounts received as grants under the Shuttered
389 Venue Operators Grant Program and Restaurant Revitalization Fund
390 authorized by the Economic Aid to Hard-Hit Small Businesses,
391 Nonprofits, and Venues Act, and amended by the American Rescue
392 Plan Act.

393 (ss) Amounts received as grants under the Mississippi
394 Agriculture Stabilization Act.

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

396 (a) **Members of the Armed Forces.** Gross income does not
397 include compensation received for active service as a member of
398 the Armed Forces of the United States for any month during any
399 part of which such member is in a missing status, as defined in



400 paragraph (d) of this subsection, during the Vietnam Conflict as a
401 result of such conflict.

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

406 (c) **Period of conflict.** For the purpose of this
407 subsection, the Vietnam Conflict began February 28, 1961, and ends
408 on the date designated by the President by Executive Order as the
409 date of the termination of combatant activities in Vietnam. For
410 the purpose of this subsection, an individual is in a missing
411 status as a result of the Vietnam Conflict if immediately before
412 such status began he was performing service in Vietnam or was
413 performing service in Southeast Asia in direct support of military
414 operations in Vietnam. "Southeast Asia," as used in this
415 paragraph, is defined to include Cambodia, Laos, Thailand and
416 waters adjacent thereto.

417 (d) "Missing status" means the status of an employee or
418 member of the Armed Forces who is in active service and is
419 officially carried or determined to be absent in a status of (i)
420 missing; (ii) missing in action; (iii) interned in a foreign
421 country; (iv) captured, beleaguered or besieged by a hostile
422 force; or (v) detained in a foreign country against his will; but
423 does not include the status of an employee or member of the Armed



424 Forces for a period during which he is officially determined to be
425 absent from his post of duty without authority.

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

429 (f) "Employee" means one who is a citizen or national
430 of the United States or an alien admitted to the United States for
431 permanent residence and is a resident of the State of Mississippi
432 and is employed in or under a federal executive agency or
433 department of the Armed Forces.

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

438 (h) If refund or credit of any overpayment of tax for
439 any taxable year resulting from the application of this subsection
440 (5) is prevented by the operation of any law or rule of law, such
441 refund or credit of such overpayment of tax may, nevertheless, be
442 made or allowed if claim therefor is filed with the Department of
443 Revenue within three (3) years after the date of the enactment of
444 this subsection.

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

447 (6) A shareholder of an S corporation, as defined in Section
448 27-8-3(1)(g), shall take into account the income, loss, deduction



449 or credit of the S corporation only to the extent provided in
450 Section 27-8-7(2).

451 **SECTION 2.** Section 27-7-17, Mississippi Code of 1972, is
452 amended as follows:

453 27-7-17. In computing taxable income, there shall be allowed
454 as deductions:

455 (1) **Business deductions.**

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

471 (b) **Interest.** All interest paid or accrued during the
472 taxable year on business indebtedness, except interest upon the
473 indebtedness for the purchase of tax-free bonds, or any stocks,



474 the dividends from which are nontaxable under the provisions of
475 this article; provided, however, in the case of securities
476 dealers, interest payments or accruals on loans, the proceeds of
477 which are used to purchase tax-exempt securities, shall be
478 deductible if income from otherwise tax-free securities is
479 reported as income. Investment interest expense shall be limited
480 to investment income. Interest expense incurred for the purchase
481 of treasury stock, to pay dividends, or incurred as a result of an
482 undercapitalized affiliated corporation may not be deducted unless
483 an ordinary and necessary business purpose can be established to
484 the satisfaction of the commissioner. For the purposes of this
485 paragraph, the phrase "interest upon the indebtedness for the
486 purchase of tax-free bonds" applies only to the indebtedness
487 incurred for the purpose of directly purchasing tax-free bonds and
488 does not apply to any other indebtedness incurred in the regular
489 course of the taxpayer's business. Any corporation, association,
490 organization or other entity taxable under Section 27-7-23(c)
491 shall allocate interest expense as provided in Section
492 27-7-23(c) (3) (I).

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



499 an individual, taxes permitted as an itemized deduction under the
500 provisions of subsection (3)(a) of this section are to be claimed
501 thereunder.

502 (d) **Business losses.**

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

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

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

515 (f) **Depreciation.** A reasonable allowance for
516 exhaustion, wear and tear of property used in the trade or
517 business, or rental property, and depreciation upon buildings
518 based upon their reasonable value as of March 16, 1912, if
519 acquired prior thereto, and upon cost if acquired subsequent to
520 that date. In the case of new or used aircraft, equipment,
521 engines, or other parts and tools used for aviation, allowance for
522 bonus depreciation conforms with the federal bonus depreciation



523 rates and reasonable allowance for depreciation under this section
524 is no less than one hundred percent (100%).

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

532 (h) **Contributions or gifts.** Except as otherwise
533 provided in paragraph (p) of this subsection or subsection (3)(a)
534 of this section for individuals, contributions or gifts made by
535 corporations within the taxable year to corporations,
536 organizations, associations or institutions, including Community
537 Chest funds, foundations and trusts created solely and exclusively
538 for religious, charitable, scientific or educational purposes, or
539 for the prevention of cruelty to children or animals, no part of
540 the net earnings of which inure to the benefit of any private
541 stockholder or individual. This deduction shall be allowed in an
542 amount not to exceed twenty percent (20%) of the net income. Such
543 contributions or gifts shall be allowable as deductions only if
544 verified under rules and regulations prescribed by the
545 commissioner, with the approval of the Governor. Contributions
546 made in any form other than cash shall be allowed as a deduction,
547 subject to the limitations herein provided, in an amount equal to



548 the actual market value of the contributions at the time the
549 contribution is actually made and consummated.

550 (i) **Reserve funds - insurance companies.** In the case
551 of insurance companies the net additions required by law to be
552 made within the taxable year to reserve funds when such reserve
553 funds are maintained for the purpose of liquidating policies at
554 maturity.

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

558 (k) **Contributions to employee pension plans.**
559 Contributions made by an employer to a plan or a trust forming
560 part of a pension plan, stock bonus plan, disability or
561 death-benefit plan, or profit-sharing plan of such employer for
562 the exclusive benefit of some or all of his, their, or its
563 employees, or their beneficiaries, shall be deductible from his,
564 their, or its income only to the extent that, and for the taxable
565 year in which, the contribution is deductible for federal income
566 tax purposes under the Internal Revenue Code of 1986 and any other
567 provisions of similar purport in the Internal Revenue Laws of the
568 United States, and the rules, regulations, rulings and
569 determinations promulgated thereunder, provided that:

570 (i) The plan or trust be irrevocable.

571 (ii) The plan or trust constitute a part of a
572 pension plan, stock bonus plan, disability or death-benefit plan,



573 or profit-sharing plan for the exclusive benefit of some or all of
574 the employer's employees and/or officers, or their beneficiaries,
575 for the purpose of distributing the corpus and income of the plan
576 or trust to such employees and/or officers, or their
577 beneficiaries.

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

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

588 (1) **Net operating loss carrybacks and carryovers.** A
589 net operating loss for any taxable year ending after December 31,
590 1993, and taxable years thereafter, shall be a net operating loss
591 carryback to each of the three (3) taxable years preceding the
592 taxable year of the loss. If the net operating loss for any
593 taxable year is not exhausted by carrybacks to the three (3)
594 taxable years preceding the taxable year of the loss, then there
595 shall be a net operating loss carryover to each of the fifteen
596 (15) taxable years following the taxable year of the loss
597 beginning with any taxable year after December 31, 1991.



598 For any taxable year ending after December 31, 1997, the
599 period for net operating loss carrybacks and net operating loss
600 carryovers shall be the same as those established by the Internal
601 Revenue Code and the rules, regulations, rulings and
602 determinations promulgated thereunder as in effect at the taxable
603 year end or on December 31, 2000, whichever is earlier.

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

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

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

619 (ii) No personal exemption deduction shall be
620 allowed.

621 (iii) Allowable deductions which are not
622 attributable to taxpayer's trade or business shall be allowed only



623 to the extent of the amount of gross income not derived from such
624 trade or business.

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

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

640 (n) **Dividend distributions - real estate investment**
641 **trusts.** "Real estate investment trust" (hereinafter referred to
642 as REIT) shall have the meaning ascribed to such term in Section
643 856 of the federal Internal Revenue Code of 1986, as amended. A
644 REIT is allowed a dividend distributed deduction if the dividend
645 distributions meet the requirements of Section 857 or are
646 otherwise deductible under Section 858 or 860, federal Internal
647 Revenue Code of 1986, as amended. In addition:



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

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

657 (iii) A holding corporation receiving a dividend
658 from a REIT shall not be allowed the deduction in Section
659 27-7-15(4)(t).

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

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

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



673 College Tuition Program are deductible as provided under Section
674 37-155-17.

675 (p) **Contributions of human pharmaceutical products.** To
676 the extent that a "major supplier" as defined in Section
677 27-13-13(2) (d) contributes human pharmaceutical products in excess
678 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as
679 determined under Section 170 of the Internal Revenue Code, the
680 charitable contribution limitation associated with those donations
681 shall follow the federal limitation but cannot result in the
682 Mississippi net income being reduced below zero.

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

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

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

690 (i) "Intangible expenses and costs" include:

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



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

700 3. Royalty, patent, technical and copyright
701 fees;

702 4. Licensing fees; and

703 5. Other similar expenses and costs.

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

707 (iii) "Interest expenses and cost" means amounts
708 directly or indirectly allowed as deductions for purposes of
709 determining taxable income under this chapter to the extent such
710 interest expenses and costs are directly or indirectly for,
711 related to, or in connection with the direct or indirect
712 acquisition, maintenance, management, ownership, sale, exchange or
713 disposition of intangible property.

714 (iv) "Related member" means an entity or person
715 that, with respect to the taxpayer during all or any portion of
716 the taxable year, is a related entity, a component member as
717 defined in the Internal Revenue Code, or is an entity or a person
718 to or from whom there is attribution of stock ownership in
719 accordance with Section 1563(e) of the Internal Revenue Code.

720 (v) "Related entity" means:



721 1. A stockholder who is an individual or a
722 member of the stockholder's family, as defined in regulations
723 prescribed by the commissioner, if the stockholder and the members
724 of the stockholder's family own, directly, indirectly,
725 beneficially or constructively, in the aggregate, at least fifty
726 percent (50%) of the value of the taxpayer's outstanding stock;

727 2. A stockholder, or a stockholder's
728 partnership, limited liability company, estate, trust or
729 corporation, if the stockholder and the stockholder's
730 partnerships, limited liability companies, estates, trusts and
731 corporations own, directly, indirectly, beneficially or
732 constructively, in the aggregate, at least fifty percent (50%) of
733 the value of the taxpayer's outstanding stock;

734 3. A corporation, or a party related to the
735 corporation in a manner that would require an attribution of stock
736 from the corporation to the party or from the party to the
737 corporation, if the taxpayer owns, directly, indirectly,
738 beneficially or constructively, at least fifty percent (50%) of
739 the value of the corporation's outstanding stock under regulation
740 prescribed by the commissioner;

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

744 (b) In computing net income, a taxpayer shall add back
745 otherwise deductible interest expenses and costs and intangible



746 expenses and costs directly or indirectly paid, accrued to or
747 incurred, in connection directly or indirectly with one or more
748 direct or indirect transactions with one or more related members.

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

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

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

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

767 (e) The commissioner may prescribe such regulations as
768 necessary or appropriate to carry out the purposes of this
769 subsection, including, but not limited to, clarifying definitions



770 of terms, rules of stock attribution, factoring and discount
771 transactions.

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

773 (a) The amount allowable for individual nonbusiness
774 itemized deductions for federal income tax purposes where the
775 individual is eligible to elect, for the taxable year, to itemize
776 deductions on his federal return except the following:

777 (i) The deduction for state income taxes paid or
778 other taxes allowed for federal purposes in lieu of state income
779 taxes paid;

780 (ii) The deduction for gaming losses from gaming
781 establishments;

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

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

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

791 (i) Three Thousand Four Hundred Dollars
792 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
793 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
794 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter



795 in the case of married individuals filing a joint or combined
796 return;

797 (ii) One Thousand Seven Hundred Dollars
798 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
799 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
800 Three Hundred Dollars (\$2,300.00) for each calendar year
801 thereafter in the case of married individuals filing separate
802 returns;

803 (iii) Three Thousand Four Hundred Dollars
804 (\$3,400.00) in the case of a head of family; or

805 (iv) Two Thousand Three Hundred Dollars
806 (\$2,300.00) in the case of an individual who is not married.

807 In the case of a husband and wife living together, having
808 separate incomes, and filing combined returns, the standard
809 deduction authorized may be divided in any manner they choose. In
810 the case of separate returns by a husband and wife, the standard
811 deduction shall not be allowed to either if the taxable income of
812 one of the spouses is determined without regard to the standard
813 deduction.

814 (c) A nonresident individual shall be allowed the same
815 individual nonbusiness deductions as are authorized for resident
816 individuals in paragraph (a) or (b) of this subsection; however,
817 the nonresident individual is entitled only to that proportion of
818 the individual nonbusiness deductions as his net income from



819 sources within the State of Mississippi bears to his total or
820 entire net income from all sources.

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

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

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

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

840 **SECTION 3.** Section 57-121-7, Mississippi Code of 1972, is
841 amended as follows:

842 57-121-7. (1) Any eligible business desiring to participate
843 in the program shall make application for a grant to the MDA in a



844 form satisfactory to the MDA. The application shall include
845 verified documentation, signed under penalty of perjury.

846 (2) The MDA shall use the funds provided by this chapter to
847 make grants to eligible businesses pursuant to applications
848 submitted under subsection (1) of this section, to cover their
849 eligible expenses.

850 (3) The use of grants shall be subject to audit by the
851 United States Department of the Treasury's Office of Inspector
852 General and the Mississippi Office of the State Auditor. A
853 business found to be fully or partially noncompliant with grant
854 requirements shall return to the state all or a portion of the
855 grant monies received. Applicants shall confirm their
856 understanding of these terms.

857 (4) The program shall be subject to the following terms and
858 conditions:

859 (a) The base payment to an eligible business shall be
860 One Thousand Five Hundred Dollars (\$1,500.00). An eligible
861 business may choose to receive additional compensation by either
862 claiming Five Hundred Dollars (\$500.00) per full-time equivalent
863 employee employed by the eligible business as of March 1, 2020, or
864 itemizing eligible expenses on the application form. The total
865 payment shall be reduced by the amount of any Paycheck Protection
866 Program (PPP) funds, Economic Injury Disaster Loan (EIDL)
867 Emergency Advance funds up to a maximum of Ten Thousand Dollars
868 (\$10,000.00), and business interruption insurance proceeds



869 received by the eligible taxpayer; provided, however, that the
870 total payment shall not be reduced by more than half. In no event
871 shall the total payment to an eligible business under this section
872 exceed Twenty-five Thousand Dollars (\$25,000.00).

873 (b) At least Forty Million Dollars (\$40,000,000.00) in
874 grants, exclusive of administrative expenses retained by the MDA,
875 shall be awarded to minority business enterprises for the first
876 sixty (60) days of the application period.

877 (c) Grants awarded shall be protected from creditors
878 and shall not be subject to tax.

879 * * *

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

