

By: Representative Busby

To: Ways and Means

HOUSE BILL NO. 1691

1 AN ACT TO ALLOW PARTNERSHIPS, S CORPORATIONS OR SIMILAR
2 PASS-THROUGH ENTITIES TO ELECT TO BE TAXED AS AN ELECTING
3 PASS-THROUGH ENTITIES FOR STATE INCOME TAX PURPOSES AND PAY INCOME
4 TAX AT THE ENTITY LEVEL; TO PROVIDE THE MANNER BY WHICH A
5 PARTNERSHIP, S CORPORATION OR SIMILAR PASS-THROUGH ENTITY MAY
6 ELECT TO BE TAXED AS AN ELECTING PASS-THROUGH ENTITY; TO PROVIDE
7 THAT EACH OWNER, MEMBER, PARTNER OR SHAREHOLDER OF AN ELECTING
8 PASS-THROUGH ENTITY SHALL REPORT HIS OR HER PRO RATA OR
9 DISTRIBUTIVE SHARE OF THE INCOME OF THE ELECTING PASS-THROUGH
10 ENTITY BUT SHALL NOT BE LIABLE FOR INCOME TAX IMPOSED ON SUCH PRO
11 RATA OR DISTRIBUTIVE SHARE; TO PROVIDE THAT EACH OWNER, MEMBER,
12 PARTNER OR SHAREHOLDER OF AN ELECTING PASS-THROUGH ENTITY SHALL BE
13 ALLOWED A CREDIT AGAINST INCOME TAXES IN AN AMOUNT EQUAL TO HIS OR
14 HER PRO RATA OR DISTRIBUTIVE SHARE OF INCOME TAX PAID BY THE
15 ELECTING PASS-THROUGH ENTITY WITH RESPECT TO THE CORRESPONDING
16 TAXABLE YEAR; TO AMEND SECTION 27-7-25, MISSISSIPPI CODE OF 1972,
17 TO CONFORM TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD
18 SECTIONS 27-7-5, 27-7-15, 27-7-27, 27-7-29, 27-7-33 AND 27-7-41,
19 MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS OF THE INCOME TAX LAW
20 OF 1952, FOR THE PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTION
21 27-8-7, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF
22 THIS ACT; TO BRING FORWARD SECTIONS 27-8-3, 27-8-11, 27-8-15,
23 27-8-19 AND 27-8-21, MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS
24 OF THE MISSISSIPPI S CORPORATION INCOME TAX ACT, FOR THE PURPOSES
25 OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 79-29-127,
26 MISSISSIPPI CODE OF 1972, WHICH IS A SECTION OF THE REVISED
27 MISSISSIPPI LIMITED LIABILITY COMPANY ACT, FOR THE PURPOSES OF
28 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

30 **SECTION 1.** (1) (a) For calendar year 2022, and for each
31 calendar year thereafter, any partnership, S corporation or



32 similar pass-through entity may elect to be taxed as an electing
33 pass-through entity and pay the tax imposed under this chapter at
34 the entity level. For the purposes of this section, the term
35 "electing pass-through entity" means a partnership, S corporation
36 or similar pass-through entity that has made an election pursuant
37 to this section.

38 (b) A partnership, S corporation or similar
39 pass-through entity desiring to be taxed as an electing
40 pass-through entity shall submit the appropriate form to the
41 Department of Revenue at any time during the tax year or on or
42 before the fifteenth day of the third month following the close of
43 that taxable year for which the entity elects to be taxed as an
44 electing pass-through entity. This election shall be binding for
45 that taxable year and all taxable years thereafter and shall not
46 be revoked unless the electing pass-through entity submits the
47 appropriate form to the department at any time during a subsequent
48 taxable year or on or before the fifteenth day of the third month
49 following the close of that taxable year for which the entity
50 elects to no longer be taxed as an electing pass-through entity.
51 Both the election to become an electing pass-through entity and
52 the revocation of that election shall be accomplished by a vote by
53 or written consent of the members of the governing body of the
54 entity as well as a vote by or written consent of the owners,
55 members, partners or shareholders holding greater than fifty



56 percent (50%) percent of the voting control of the entity, within
57 the time prescribed in this subsection.

58 (c) Each owner, member, partner or shareholder of an
59 electing pass-through entity shall report his or her pro rata or
60 distributive share of the income of the electing pass-through
61 entity but shall not be liable for the tax imposed under this
62 chapter on such pro rata or distributive share of the income of
63 the electing pass-through entity. Each owner, member, partner or
64 shareholder of an electing pass-through entity shall be allowed a
65 credit against the taxes imposed under this chapter in an amount
66 equal to his or her pro rata or distributive share of tax paid by
67 the electing pass-through entity with respect to the corresponding
68 taxable year.

69 (2) The adjusted basis of the owners, members or partners of
70 an electing pass-through entity in their ownership interests in
71 the electing pass-through entity shall be calculated without
72 regard to the election under this section.

73 **SECTION 2.** Section 27-7-25, Mississippi Code of 1972, is
74 amended as follows:

75 27-7-25. (1) Individuals carrying on businesses in
76 partnerships shall be liable for income tax only in their
77 individual capacity, unless for federal purposes the partnership
78 is taxable as a corporation. If so, then the partnership is also
79 taxable as a corporation for state purposes and is subject to all
80 of the corporate tax laws and regulations. The gross income of an



81 individual partner shall be the gross income the partnership
82 distributed on the same basis as net income or earnings may be
83 distributed. If the preceding exception applies, then the partner
84 will be treated as a shareholder in a corporation.

85 There shall be included in computing the net income of each
86 partner his distributive share, whether distributed or not, of the
87 net income of the partnership for the taxable year.

88 The net income of the partnership shall be computed in the
89 same manner and on the same basis as provided for individuals,
90 provided no personal exemption shall be granted and, provided
91 further, that husband and wife partnerships shall not be
92 recognized for the purpose of this article, unless it can be
93 proven that husband and wife have each contributed capital out of
94 their separate estates, and not by gift, from one to the other.

95 In the case of partnerships, each partner that would
96 otherwise be required to include more than twelve (12) months of
97 income in a single taxable year may elect to include such excess
98 in income in one (1) year or ratably over a period of four (4)
99 taxable years.

100 In the event the individual partners fail to report and pay
101 the taxes imposed according to this section, then the partnership
102 and the general partners shall be jointly and severally liable for
103 said tax liability and shall be assessed accordingly. However,
104 the partnership and/or general partner shall not be liable if the
105 partnership withholds five percent (5%) of the net gain or profit



106 of the partnership for the tax year and remits the same to the
107 commissioner. Such amounts paid to the commissioner shall be
108 deemed to be payments of estimated tax of the partners and shall
109 be allocated pro rata to the partners' taxpayer accounts. The
110 commissioner may allow, or require, block or composite filing by a
111 partnership, or withholding on a nonresident partner.

112 Magnetic media reporting may be required in a manner to be
113 determined by the commissioner.

114 Partnership returns shall be filed in such manner and at such
115 time as prescribed by law.

116 (2) For a partnership that has made an election under
117 Section 1 of this act to be taxed as an electing pass-through
118 entity, the partnership shall pay income tax as provided for in
119 Section 1 of this act.

120 **SECTION 3.** Section 27-7-5, Mississippi Code of 1972, is
121 brought forward as follows:

122 27-7-5. (1) There is hereby assessed and levied, to be
123 collected and paid as hereinafter provided, for the calendar year
124 1983 and fiscal years ending during the calendar year 1983 and all
125 taxable years thereafter, upon the entire net income of every
126 resident individual, corporation, association, trust or estate, in
127 excess of the credits provided, a tax at the following rates:

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



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

136 (iii) For calendar year 2019, on the first Two
137 Thousand Dollars (\$2,000.00) of taxable income there shall be no
138 tax levied, and on the next Three Thousand Dollars (\$3,000.00) of
139 taxable income, or any part thereof, the rate shall be three
140 percent (3%);

141 (iv) For calendar year 2020, on the first Three
142 Thousand Dollars (\$3,000.00) of taxable income there shall be no
143 tax levied, and on the next Two Thousand Dollars (\$2,000.00) of
144 taxable income, or any part thereof, the rate shall be three
145 percent (3%);

146 (v) For calendar year 2021, on the first Four
147 Thousand Dollars (\$4,000.00) of taxable income there shall be no
148 tax levied, and on the next One Thousand Dollars (\$1,000.00) of
149 taxable income, or any part thereof, the rate shall be three
150 percent (3%);

151 (vi) For calendar year 2022 and all taxable years
152 thereafter, there shall be no tax levied on the first Five
153 Thousand Dollars (\$5,000.00) of taxable income;

154 (b) On taxable income in excess of Five Thousand
155 Dollars (\$5,000.00) up to and including Ten Thousand Dollars



156 (\$10,000.00), or any part thereof, the rate shall be four percent
157 (4%); and

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

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

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

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

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

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



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

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

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

191 **SECTION 4.** Section 27-7-15, Mississippi Code of 1972, is
192 brought forward as follows:

193 27-7-15. (1) For the purposes of this article, except as
194 otherwise provided, the term "gross income" means and includes the
195 income of a taxpayer derived from salaries, wages, fees or
196 compensation for service, of whatever kind and in whatever form
197 paid, including income from governmental agencies and subdivisions
198 thereof; or from professions, vocations, trades, businesses,
199 commerce or sales, or renting or dealing in property, or
200 reacquired property; also from annuities, interest, rents,
201 dividends, securities, insurance premiums, reinsurance premiums,
202 considerations for supplemental insurance contracts, or the
203 transaction of any business carried on for gain or profit, or
204 gains, or profits, and income derived from any source whatever and



205 in whatever form paid. The amount of all such items of income
206 shall be included in the gross income for the taxable year in
207 which received by the taxpayer. The amount by which an eligible
208 employee's salary is reduced pursuant to a salary reduction
209 agreement authorized under Section 25-17-5 shall be excluded from
210 the term "gross income" within the meaning of this article.

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

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

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

219 (i) Prior to January 1, 2001, federal rules,
220 regulations and revenue procedures shall be followed with respect
221 to installment sales except they shall be applied and administered
222 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
223 106th Congress, had not been enacted. This provision will
224 generally affect taxpayers, reporting on the accrual method of
225 accounting, entering into installment note agreements on or after
226 December 17, 1999. Any gain or profit resulting from the casual
227 sale of property will be recognized in the year of sale.

228 (ii) From and after January 1, 2001, federal
229 rules, regulations and revenue procedures shall be followed with



230 respect to installment sales except as provided in this
231 subparagraph (ii). Gain or profit from the casual sale of
232 property shall be recognized in the year of sale. When a taxpayer
233 recognizes gain on the casual sale of property in which the gain
234 is deferred for federal income tax purposes, a taxpayer may elect
235 to defer the payment of tax resulting from the gain as allowed and
236 to the extent provided under regulations prescribed by the
237 commissioner. If the payment of the tax is made on a deferred
238 basis, the tax shall be computed based on the applicable rate for
239 the income reported in the year the payment is made. Except as
240 otherwise provided in subparagraph (iii) of this paragraph (b),
241 deferring the payment of the tax shall not affect the liability
242 for the tax. If at any time the installment note is sold,
243 contributed, transferred or disposed of in any manner and for any
244 purpose by the original note holder, or the original note holder
245 is merged, liquidated, dissolved or withdrawn from this state,
246 then all deferred tax payments under this section shall
247 immediately become due and payable.

248 (iii) If the selling price of the property is
249 reduced by any alteration in the terms of an installment note,
250 including default by the purchaser, the gain to be recognized is
251 recomputed based on the adjusted selling price in the same manner
252 as for federal income tax purposes. The tax on this amount, less
253 the previously paid tax on the recognized gain, is payable over
254 the period of the remaining installments. If the tax on the



255 previously recognized gain has been paid in full to this state,
256 the return on which the payment was made may be amended for this
257 purpose only. The statute of limitations in Section 27-7-49 shall
258 not bar an amended return for this purpose.

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

262 (d) **Affiliated companies or persons.** As regards sales,
263 exchanges or payments for services from one to another of
264 affiliated companies or persons or under other circumstances where
265 the relation between the buyer and seller is such that gross
266 proceeds from the sale or the value of the exchange or the payment
267 for services are not indicative of the true value of the subject
268 matter of the sale, exchange or payment for services, the
269 commissioner shall prescribe uniform and equitable rules for
270 determining the true value of the gross income, gross sales,
271 exchanges or payment for services, or require consolidated returns
272 of affiliates.

273 (e) **Alimony and separate maintenance payments.** The
274 federal rules, regulations and revenue procedures in determining
275 the deductibility and taxability of alimony payments shall be
276 followed in this state.

277 (f) **Reimbursement for expenses of moving.** There shall
278 be included in gross income (as compensation for services) any
279 amount received or accrued, directly or indirectly, by an



280 individual as a payment for or reimbursement of expenses of moving
281 from one (1) residence to another residence which is attributable
282 to employment or self-employment.

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

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

288 (a) The proceeds of life insurance policies and
289 contracts paid upon the death of the insured. However, the income
290 from the proceeds of such policies or contracts shall be included
291 in the gross income.

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

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

299 (d) Interest upon the obligations of the United States
300 or its possessions, or securities issued under the provisions of
301 the Federal Farm Loan Act of 1916, or bonds issued by the War
302 Finance Corporation, or obligations of the State of Mississippi or
303 political subdivisions thereof.



304 (e) The amounts received through accident or health
305 insurance as compensation for personal injuries or sickness, plus
306 the amount of any damages received for such injuries or such
307 sickness or injuries, or through the War Risk Insurance Act, or
308 any law for the benefit or relief of injured or disabled members
309 of the military or naval forces of the United States.

310 (f) Income received by any religious denomination or by
311 any institution or trust for moral or mental improvements,
312 religious, Bible, tract, charitable, benevolent, fraternal,
313 missionary, hospital, infirmary, educational, scientific,
314 literary, library, patriotic, historical or cemetery purposes or
315 for two (2) or more of such purposes, if such income be used
316 exclusively for carrying out one or more of such purposes.

317 (g) Income received by a domestic corporation which is
318 "taxable in another state" as this term is defined in this
319 article, derived from business activity conducted outside this
320 state. Domestic corporations taxable both within and without the
321 state shall determine Mississippi income on the same basis as
322 provided for foreign corporations under the provisions of this
323 article.

324 (h) In case of insurance companies, there shall be
325 excluded from gross income such portion of actual premiums
326 received from an individual policyholder as is paid back or
327 credited to or treated as an abatement of premiums of such
328 policyholder within the taxable year.



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

333 (j) Amounts paid by the United States to a person as
334 added compensation for hazardous duty pay as a member of the Armed
335 Forces of the United States in a combat zone designated by
336 Executive Order of the President of the United States.

337 (k) Amounts received as retirement allowances,
338 pensions, annuities or optional retirement allowances paid under
339 the federal Social Security Act, the Railroad Retirement Act, the
340 Federal Civil Service Retirement Act, or any other retirement
341 system of the United States government, retirement allowances paid
342 under the Mississippi Public Employees' Retirement System,
343 Mississippi Highway Safety Patrol Retirement System or any other
344 retirement system of the State of Mississippi or any political
345 subdivision thereof. The exemption allowed under this paragraph
346 (k) shall be available to the spouse or other beneficiary at the
347 death of the primary retiree.

348 (l) Amounts received as retirement allowances,
349 pensions, annuities or optional retirement allowances paid by any
350 public or governmental retirement system not designated in
351 paragraph (k) or any private retirement system or plan of which
352 the recipient was a member at any time during the period of his
353 employment. Amounts received as a distribution under a Roth



354 Individual Retirement Account shall be treated in the same manner
355 as provided under the Internal Revenue Code of 1986, as amended.
356 The exemption allowed under this paragraph (l) shall be available
357 to the spouse or other beneficiary at the death of the primary
358 retiree.

359 (m) National Guard or Reserve Forces of the United
360 States compensation not to exceed the aggregate sum of Five
361 Thousand Dollars (\$5,000.00) for any taxable year through the 2005
362 taxable year, and not to exceed the aggregate sum of Fifteen
363 Thousand Dollars (\$15,000.00) for any taxable year thereafter.

364 (n) Compensation received for active service as a
365 member below the grade of commissioned officer and so much of the
366 compensation as does not exceed the maximum enlisted amount
367 received for active service as a commissioned officer in the Armed
368 Forces of the United States for any month during any part of which
369 such members of the Armed Forces (i) served in a combat zone as
370 designated by Executive Order of the President of the United
371 States or a qualified hazardous duty area as defined by federal
372 law, or both; or (ii) was hospitalized as a result of wounds,
373 disease or injury incurred while serving in such combat zone. For
374 the purposes of this paragraph (n), the term "maximum enlisted
375 amount" means and has the same definition as that term has in 26
376 USCS 112.

377 (o) The proceeds received from federal and state
378 forestry incentive programs.



379 (p) The amount representing the difference between the
380 increase of gross income derived from sales for export outside the
381 United States as compared to the preceding tax year wherein gross
382 income from export sales was highest, and the net increase in
383 expenses attributable to such increased exports. In the absence
384 of direct accounting, the ratio of net profits to total sales may
385 be applied to the increase in export sales. This paragraph (p)
386 shall only apply to businesses located in this state engaging in
387 the international export of Mississippi goods and services. Such
388 goods or services shall have at least fifty percent (50%) of value
389 added at a location in Mississippi.

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

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

400 (s) Amounts paid by the Mississippi Soil and Water
401 Conservation Commission from the Mississippi Soil and Water
402 Cost-Share Program for the installation of water quality best
403 management practices.



404 (t) Dividends received by a holding corporation, as
405 defined in Section 27-13-1, from a subsidiary corporation, as
406 defined in Section 27-13-1.

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

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

416 (w) Income resulting from transactions with a related
417 member where the related member subject to tax under this chapter
418 was required to, and did in fact, add back the expense of such
419 transactions as required by Section 27-7-17(2). Under no
420 circumstances may the exclusion from income exceed the deduction
421 add-back of the related member, nor shall the exclusion apply to
422 any income otherwise excluded under this chapter.

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

426 (y) Amounts that are subject to the tax levied pursuant
427 to Section 27-7-903, and are paid to patrons by gaming



428 establishments not licensed under the Mississippi Gaming Control
429 Act.

430 (z) Interest, dividends, gains or income of any kind on
431 any account in a qualified tuition program and amounts received as
432 distributions under a qualified tuition program shall be treated
433 in the same manner as provided under the United States Internal
434 Revenue Code, as amended. For the purposes of this paragraph (z),
435 the term "qualified tuition program" means and has the same
436 definition as that term has in 26 USCS 529.

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

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

448 (cc) Amounts received as a "qualified Hurricane Katrina
449 distribution" as defined in the United States Internal Revenue
450 Code, as amended.



451 (dd) Amounts received by an individual which may be
452 excluded from income as foreign earned income for federal income
453 tax purposes.

454 (ee) Amounts received by a qualified individual,
455 directly or indirectly, from an employer or nonprofit housing
456 organization that are qualified housing expenses associated with
457 an employer-assisted housing program. For purposes of this
458 paragraph (ee):

459 (i) "Qualified individual" means any individual
460 whose household income does not exceed one hundred twenty percent
461 (120%) of the area median gross income (as defined by the United
462 States Department of Housing and Urban Development), adjusted for
463 household size, for the area in which the housing is located.

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

468 1. Homeownership education or counseling;
469 2. The development of affordable housing; or
470 3. The development or administration of
471 employer-assisted housing programs.

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



476 housing expenses to assist the employer's employees in securing
477 affordable housing.

478 (iv) "Qualified housing expenses" means:

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

483 2. With respect to homeownership assistance,
484 an amount not to exceed the lesser of Ten Thousand Dollars
485 (\$10,000.00) or six percent (6%) of the purchase price of the
486 employee's principal residence that is paid for the purpose of
487 assisting employees with down payments, payment of closing costs,
488 reduced interest mortgages, mortgage guarantee programs, mortgage
489 forgiveness programs, equity contribution programs, or
490 contributions to homebuyer education and/or homeownership
491 counseling of eligible employees.

492 (ff) For the 2010 taxable year and any taxable year
493 thereafter, amounts converted in accordance with the United States
494 Internal Revenue Code, as amended, from a traditional Individual
495 Retirement Account to a Roth Individual Retirement Account. The
496 exemption allowed under this paragraph (ff) shall be available to
497 the spouse or other beneficiary at the death of the primary
498 retiree.

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



501 (hh) The amount deposited in a catastrophe savings
502 account established under Sections 27-7-1001 through 27-7-1007,
503 interest income earned on the catastrophe savings account, and
504 distributions from the catastrophe savings account; however, any
505 amount withdrawn from a catastrophe savings account for purposes
506 other than paying qualified catastrophe expenses shall be included
507 in gross income, except as otherwise provided by Sections
508 27-7-1001 through 27-7-1007.

509 (ii) Interest, dividends, gains or income of any kind
510 on any account in the Mississippi Achieving a Better Life
511 Experience (ABLE) Trust Fund, as established in Chapter 28, Title
512 43, to the extent that such amounts remain on deposit in the ABLE
513 Trust Fund or are withdrawn pursuant to a qualified withdrawal, as
514 defined in Section 43-28-11.

515 (jj) Subject to the limitations provided under Section
516 27-7-1103, amounts deposited into a first-time homebuyer savings
517 account and any interest or other income earned attributable to an
518 account and monies or funds withdrawn or distributed from an
519 account for the payment of eligible costs by or on behalf of a
520 qualified beneficiary; however, any monies or funds withdrawn or
521 distributed from a first-time homebuyer savings account for any
522 purpose other than the payment of eligible costs by or on behalf
523 of a qualified beneficiary shall be included in gross income. For
524 the purpose of this paragraph (jj), the terms "first-time
525 homebuyer savings account," "eligible costs" and "qualified



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

528 (kk) Amounts paid by an agricultural disaster program
529 as compensation to an agricultural producer, cattle farmer or
530 cattle rancher who has suffered a loss as the result of a disaster
531 or emergency, including, but not limited to, the following United
532 States Department of Agriculture programs:

533 (i) Livestock Forage Disaster Program;

534 (ii) Livestock Indemnity Program;

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

537 (iv) Emergency Conservation Program;

538 (v) Noninsured Crop Disaster Assistance Program;

539 (vi) Pasture, Rangeland, Forage Pilot Insurance
540 Program;

541 (vii) Annual Forage Pilot Program;

542 (viii) Livestock Risk Protection Insurance

543 Program; and

544 (ix) Livestock Gross Margin Insurance Plan.

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

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

549 (nn) Amounts received as payments under Section
550 27-3-85.



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

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

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

555 (a) **Members of the Armed Forces.** Gross income does not
556 include compensation received for active service as a member of
557 the Armed Forces of the United States for any month during any
558 part of which such member is in a missing status, as defined in
559 paragraph (d) of this subsection, during the Vietnam Conflict as a
560 result of such conflict.

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

565 (c) **Period of conflict.** For the purpose of this
566 subsection, the Vietnam Conflict began February 28, 1961, and ends
567 on the date designated by the President by Executive Order as the
568 date of the termination of combatant activities in Vietnam. For
569 the purpose of this subsection, an individual is in a missing
570 status as a result of the Vietnam Conflict if immediately before
571 such status began he was performing service in Vietnam or was
572 performing service in Southeast Asia in direct support of military
573 operations in Vietnam. "Southeast Asia," as used in this
574 paragraph, is defined to include Cambodia, Laos, Thailand and
575 waters adjacent thereto.



576 (d) "Missing status" means the status of an employee or
577 member of the Armed Forces who is in active service and is
578 officially carried or determined to be absent in a status of (i)
579 missing; (ii) missing in action; (iii) interned in a foreign
580 country; (iv) captured, beleaguered or besieged by a hostile
581 force; or (v) detained in a foreign country against his will; but
582 does not include the status of an employee or member of the Armed
583 Forces for a period during which he is officially determined to be
584 absent from his post of duty without authority.

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

588 (f) "Employee" means one who is a citizen or national
589 of the United States or an alien admitted to the United States for
590 permanent residence and is a resident of the State of Mississippi
591 and is employed in or under a federal executive agency or
592 department of the Armed Forces.

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

597 (h) If refund or credit of any overpayment of tax for
598 any taxable year resulting from the application of this subsection
599 (5) is prevented by the operation of any law or rule of law, such
600 refund or credit of such overpayment of tax may, nevertheless, be



601 made or allowed if claim therefor is filed with the Department of
602 Revenue within three (3) years after the date of the enactment of
603 this subsection.

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

606 (6) A shareholder of an S corporation, as defined in Section
607 27-8-3(1)(g), shall take into account the income, loss, deduction
608 or credit of the S corporation only to the extent provided in
609 Section 27-8-7(2).

610 **SECTION 5.** Section 27-7-27, Mississippi Code of 1972, is
611 brought forward as follows:

612 27-7-27. (1) The tax imposed under the income tax laws of
613 the State of Mississippi shall apply to the income of estates of
614 any kind or property held in trust except:

615 (a) That a trust forming part of a pension plan, stock
616 bonus plan, disability or death benefit plan or profit-sharing
617 plan of an employer for the exclusive benefit of some or all of
618 his or its employees, or their beneficiaries, to which
619 contributions are made by such employer, or employees, or both,
620 for the purpose of distributing to such employees, or their
621 beneficiaries, the earnings and principal of the fund accumulated
622 by the trust in accordance with such plan, shall not be taxable
623 under the income tax laws of the State of Mississippi provided
624 that the trust is irrevocable and no part of the trust corpus or
625 income can be used for purposes other than for the exclusive



626 benefit of employees, or their beneficiaries; but any amount
627 actually distributed or made available to any distributee shall be
628 taxable to him in the year in which so distributed or made
629 available to the extent that it exceeds amounts paid in by him.

630 (b) That all trusts of real or personal property, or
631 real and personal property combined, created under a retirement
632 plan for which provision has been made under the laws of the
633 United States of America exempting such trust from federal income
634 tax, shall be exempt from income taxation by the State of
635 Mississippi.

636 (2) Notwithstanding the provisions of subsection (1) of this
637 section, a taxpayer shall include any Mississippi unrelated
638 business taxable income in computing its taxable income under this
639 chapter. As used in this subsection "Mississippi unrelated
640 business taxable income" includes:

641 (a) "Unrelated business taxable income" as defined
642 under the provisions of the Internal Revenue Code, as amended, and
643 not otherwise inconsistent with other provisions of this chapter,
644 and

645 (b) Any income attributable to an ownership interest in
646 an S corporation.

647 (3) A trust required to include the activity of a
648 disregarded entity for federal income tax purposes shall do
649 likewise for the purpose of computing income for this state.



650 (4) Except as otherwise provided in this section, the gross
651 and net income shall be determined in the same manner as is
652 provided by law for any other taxpayer.

653 **SECTION 6.** Section 27-7-29, Mississippi Code of 1972, is
654 brought forward as follows:

655 27-7-29. (a) Except as otherwise provided in subsection (b)
656 of this section, all income received by the following
657 organizations shall be exempt from taxation under this article:

658 (1) Fraternal beneficiary societies, orders or
659 associations.

660 (2) Mutual savings banks, domestic or foreign when
661 organized and operated on a nonprofit basis and for public
662 purposes; and farm loan associations when organized and operated
663 on a nonprofit basis and for public purposes.

664 (3) Cemetery corporations; religious, charitable,
665 educational or scientific associations or institutions, including
666 any community chest, funds or foundations, organized and operated
667 exclusively for religious, charitable, scientific or educational
668 purposes, or for the prevention of cruelty to children or animals,
669 no part of the net earnings of which inures to the benefit of any
670 private stockholder or individual.

671 (4) Business leagues, labor organizations, agricultural
672 or horticultural associations, chambers of commerce, or boards of
673 trade not organized for profit, and no part of the net earnings of



674 which inures to the benefit of any private stockholder or
675 individual.

676 (5) Civic leagues and social clubs or organizations not
677 organized for profit, but operated exclusively for the promotion
678 of social welfare.

679 (6) Clubs organized and operated exclusively for
680 pleasure, recreation and other nonprofitable purposes, no part of
681 the net earnings of which inures to the benefit of any private
682 stockholder or member.

683 (7) Farmers and fruit growers cooperatives or other
684 like organizations organized and operated as sales agents for the
685 purpose of marketing the products of members and turning back to
686 them the proceeds of sales, less the necessary selling expenses
687 and on the basis of the quantity of produce furnished by them, and
688 other nonprofit agricultural associations organized and operated
689 under the provisions of the cooperative marketing laws of this
690 state. Corporations that are treated as cooperatives for federal
691 income tax purposes will be exempt from income taxation under this
692 chapter to the same extent as provided for federal income tax
693 purposes.

694 (8) Nonprofit cooperative electric power associations
695 or corporations, or like associations, when organized and operated
696 for public purposes and when no part of the income inures to the
697 benefit of any private stockholder or individual.



698 (9) Any nonprofit corporation that is required to be
699 organized and formed for the purpose of operating and managing the
700 state's prison industries.

701 (b) Any Mississippi unrelated business taxable income shall
702 be included in taxable income for any organization described in
703 this section. As used in this subsection "Mississippi unrelated
704 business taxable income" includes:

705 (1) "Unrelated business taxable income" as defined
706 under the provisions of the Internal Revenue Code, as amended, and
707 not otherwise inconsistent with other provisions of this chapter,
708 and

709 (2) Any income attributable to an ownership interest in
710 an S corporation.

711 **SECTION 7.** Section 27-7-33, Mississippi Code of 1972, is
712 brought forward as follows:

713 27-7-33. (1) Every partnership shall make a return for each
714 taxable year, stating specifically the items of its gross income
715 and the deductions allowed by this article, and shall include in
716 the return the names and addresses of the individuals who would be
717 entitled to share in the net income, if distributed, and the
718 amount of the distributive share of each individual. The return
719 shall contain an oath or be verified by a written declaration that
720 it is made under the penalties of perjury.



721 (2) A partnership required to include the activity of a
722 disregarded entity for federal income tax purposes shall do
723 likewise for the purpose of computing income for this state.

724 (3) A partnership taxable year is required to be the same
725 for Mississippi income tax purposes as determined for federal
726 income tax purposes.

727 **SECTION 8.** Section 27-7-41, Mississippi Code of 1972, is
728 brought forward as follows:

729 27-7-41. Except as otherwise provided in this section,
730 returns of individuals, estates, trusts and partnerships shall be
731 filed on or before the 15th day of the fourth month following the
732 close of the fiscal year; or if the return is filed on the basis
733 of a calendar year, it shall be filed on or before April 15 of
734 each year. Except as otherwise provided in this section, returns
735 of corporations shall be filed on or before the 15th day of the
736 third month following the close of the fiscal year; or if the
737 return is filed on the basis of a calendar year, it shall be filed
738 on or before March 15 of each year. For tax years beginning after
739 December 31, 2015, the date for filing a return under this section
740 shall be the same as the date provided for filing the
741 corresponding federal return.

742 If the date for filing any report, claim, tax return,
743 statement, remittance, or other document falls upon a Saturday,
744 Sunday or legal holiday, the filing shall be considered timely if
745 performed on the next business day.



746 All returns shall be made to the commissioner.

747 **SECTION 9.** Section 27-8-7, Mississippi Code of 1972, is
748 amended as follows:

749 27-8-7. (1) An S corporation shall not be subject to the
750 tax imposed by Section 27-7-5; however, for an S corporation that
751 has made an election under Section 1 of this act to be taxed as an
752 electing pass-through entity, the S corporation shall be subject
753 to and pay such tax as provided for in Section 1 of this act.

754 (2) For purposes of Section 27-7-15, each shareholder's pro
755 rata share of the S corporation's income attributable to the
756 state, and each resident shareholder's pro rata share of the S
757 corporation's income not attributable to the state, shall be taken
758 into account by the shareholder in the manner provided in Section
759 1366 of the Code.

760 (3) For purposes of determining the amounts taken into
761 account by the shareholders of an S corporation under subsection
762 (2) of this section, the amount of any tax imposed on the S
763 corporation under the Code shall not reduce the S corporation's
764 income attributable to the state and income not attributable to
765 the state.

766 **SECTION 10.** Section 27-8-3, Mississippi Code of 1972, is
767 brought forward as follows:

768 27-8-3. (1) For purposes of this chapter, the following
769 terms shall have meanings ascribed below:



770 (a) "C corporation" means a corporation which is not an
771 S corporation.

772 (b) "Code" means the Internal Revenue Code of 1986, as
773 amended and as applicable to the taxable period; references to
774 sections of the code shall be deemed to refer to corresponding
775 provisions of prior and subsequent federal tax laws.

776 (c) "Income attributable to the state" means items of
777 income, loss, deduction or credit of the S corporation apportioned
778 to this state under Section 27-7-23(c) (2) or allocated to this
779 state under Section 27-7-23(c) (3).

780 (d) "Income not attributable to the state" means all
781 items of income, loss, deduction or credit of the S corporation
782 other than income attributable to the state.

783 (e) "Post-termination transition period" means that
784 period defined in Section 1377(b) (1) of the code.

785 (f) "Pro rata share" means the portion of any item
786 attributable to an S corporation shareholder for a taxable period
787 determined in the manner provided in, and subject to any election
788 made under, Section 1377(a) or 1362(e), as the case may be, of the
789 code.

790 (g) "S corporation" means a corporation for which a
791 valid election under Section 1362(a) of the code is in effect.

792 (h) "Taxable period" means any taxable year or portion
793 of a taxable year during which a corporation is an S corporation.



794 (2) Except as otherwise expressly provided or clearly
795 appearing from the context, any term used in this chapter shall
796 have the same meaning as when used in a comparable context in the
797 code, or in any statute relating to federal income taxes, in
798 effect for the taxable period. Due consideration shall be given
799 in the interpretation of this chapter to applicable sections of
800 the code in effect from time to time and to federal rulings and
801 regulations interpreting such sections, provided such code,
802 rulings and regulations do not conflict with the provisions of
803 this chapter.

804 **SECTION 11.** Section 27-8-11, Mississippi Code of 1972, is
805 brought forward as follows:

806 27-8-11. (1) The initial basis in the hands of a resident
807 shareholder of an S corporation in the stock of the S corporation
808 and any indebtedness of the S corporation to the shareholder shall
809 be determined in the manner provided under the Code and shall be
810 determined as of the date that is the latest to occur of (a) the
811 date on which the shareholder last became a resident of this
812 state, (b) the date on which the shareholder acquired the stock or
813 the indebtedness of the corporation or (c) the effective date of
814 the corporation's most recent S election under the Code. This
815 date may be before January 1, 1994.

816 (2) The initial basis of a resident shareholder in the stock
817 and indebtedness of an S corporation shall be adjusted after the
818 date specified in subsection (1) of this section in the manner and



819 to the extent required by Section 1011 of the Code except that,
820 with respect to any taxable period during which the shareholder is
821 a resident of this state,

822 (a) Any differences between state and federal taxable
823 income shall be taken into account; and

824 (b) Any adjustments made pursuant to Section 1367 of
825 the Code for a taxable period during which this state did not
826 measure the income of a shareholder of an S corporation by
827 reference to the S corporation's income shall not be taken into
828 account.

829 (3) The initial basis in the hands of a nonresident
830 shareholder of an S corporation in the stock of the S corporation
831 and any indebtedness of the S corporation to the shareholder shall
832 be zero as of the date that is the latest to occur of (a) the date
833 on which the shareholder last became a nonresident of this state,
834 (b) the date on which the shareholder acquired the stock or the
835 indebtedness of the corporation or (c) the effective date of the
836 corporation's most recent S election under the Code. This date
837 may be before January 1, 1994.

838 (4) The initial basis of a nonresident shareholder in the
839 stock and indebtedness of an S corporation shall be adjusted after
840 the date specified in subsection (3) of this section as provided
841 in Section 1367 of the Code, except that such adjustments shall be
842 limited to that portion of the income attributable to the state
843 that is taken into account by the shareholder pursuant to Section



844 27-8-7(2). In computing income attributable to the state for
845 purposes of the preceding sentence, any modification made for
846 income exempt from federal or this state's taxation shall not be
847 taken into account.

848 (5) The basis in the hands of a resident shareholder of an S
849 corporation in the stock of the S corporation shall be reduced by
850 the amount allowed as a loss or deduction pursuant to Section
851 27-8-13(4).

852 (6) The basis in the hands of a resident shareholder of an S
853 corporation in the stock of the S corporation shall be reduced by
854 the amount of any cash distribution which is not taxable to the
855 shareholder as a result of the application of Section 27-8-17(2).

856 (7) For purposes of this section, any person acquiring stock
857 or indebtedness of an S corporation by gift from a person who is a
858 resident of this state at the time of the gift shall be considered
859 to have acquired the stock or indebtedness at the time the donor
860 acquired the stock or indebtedness.

861 **SECTION 12.** Section 27-8-15, Mississippi Code of 1972, is
862 brought forward as follows:

863 27-8-15. For purposes of this chapter, if a shareholder of
864 an S corporation is both a resident and nonresident of this state
865 during any taxable period, the shareholder's pro rata share of the
866 S corporation's income attributable to the state and income not
867 attributable to the state for the taxable period shall be further
868 prorated between the shareholder's periods of residence and



869 nonresidence during the taxable period, in accordance with the
870 number of days in each period.

871 **SECTION 13.** Section 27-8-19, Mississippi Code of 1972, is
872 brought forward as follows:

873 27-8-19. (1) An S corporation which engages in activities
874 in this state that would subject a C corporation to the
875 requirement to file a return under Section 27-7-37 shall file with
876 the State Tax Commission an annual return, in the form prescribed
877 by the commission, on or before the due date prescribed for the
878 filing of C corporation returns under Section 27-7-41. The return
879 shall set forth the name, address and social security or federal
880 identification number of each shareholder; the income attributable
881 to the state and income not attributable to the state with respect
882 to each shareholder as determined under this chapter; and such
883 other information as the commission may prescribe by regulation.
884 The S corporation shall furnish, on or before the day on which
885 such return is filed, to each person who was a shareholder during
886 the year a copy of such information shown on the return as the
887 commission may prescribe by regulation. The S corporation also
888 shall maintain the accumulated adjustments account described in
889 Section 27-8-17(3)(b).

890 (2) The State Tax Commission shall permit S corporations to
891 file composite returns and to make composite payments of tax on
892 behalf of some or all of its nonresident shareholders. The



893 commission may permit composite returns and payments to be made on
894 behalf of resident shareholders.

895 (3) With respect to each of its nonresident shareholders and
896 for each taxable period, an S corporation shall (a) timely file
897 with the commission an agreement as provided in subsection (4) of
898 this section or (b) make a payment to this state as provided in
899 subsection (5) of this section. An S corporation that timely
900 files an agreement as provided in subsection (4) of this section
901 with respect to a nonresident shareholder for a taxable period
902 shall be considered to have timely filed such an agreement for
903 each subsequent taxable period. An S corporation that does not
904 timely file such an agreement for a taxable period shall not be
905 precluded from timely filing such an agreement for subsequent
906 taxable periods.

907 (4) The agreement referred to in subsection (3)(a) of this
908 section is an agreement of a nonresident shareholder of the S
909 corporation:

910 (a) To file a return and to make timely payment of all
911 taxes imposed on the shareholder by this state with respect to the
912 income of the S corporation; and

913 (b) To be subject to personal jurisdiction in this
914 state for purposes of the collection of income taxes, together
915 with related interest and penalties, imposed on the shareholder by
916 this state with respect to the income of the S corporation.



917 The agreement will be considered to be timely filed for a
918 taxable period and for all subsequent taxable periods if it is
919 filed at or before the time the annual return for such taxable
920 period is required to be filed.

921 In the event the S corporation fails to obtain an agreement
922 of a nonresident shareholder as provided in subsection (3)(a) of
923 this section or in the event a nonresident shareholder of an S
924 corporation fails to file a return and to make timely payments of
925 all taxes imposed on the shareholder by this state as provided in
926 subsection (4)(a) of this section, the S corporation shall make a
927 payment to the state as provided in subsection (5) of this
928 section.

929 (5) The payment referred to in subsection (3)(b) and (4) of
930 this section shall be in an amount equal to the highest marginal
931 tax rate in effect under Section 27-7-5 multiplied by the
932 shareholder's pro rata share of the income attributable to the
933 state reflected on the corporation's return for the taxable
934 period. An S corporation shall be entitled to recover a payment
935 made pursuant to the preceding sentence from the shareholder on
936 whose behalf the payment was made. Any such payment for a taxable
937 period must be made at or before the time the annual return for
938 such taxable period is required to be filed.

939 (6) Any amount paid by the corporation to this state under
940 subsection (2) or (5) of this section shall be considered to be a



941 payment by the shareholder on account of the income tax imposed on
942 the shareholder for the taxable period under Section 27-7-5.

943 **SECTION 14.** Section 27-8-21, Mississippi Code of 1972, is
944 brought forward as follows:

945 27-8-21. For purposes of Section 27-7-77, each resident
946 shareholder shall be considered to have paid a tax imposed on the
947 shareholder in an amount equal to the shareholder's pro rata share
948 of any net income tax paid by the S corporation to a state which
949 does not measure the income of shareholders of an S corporation by
950 reference to the income of the S corporation. For purposes of the
951 preceding sentence, the term "net income tax" means any tax
952 imposed on or measured by a corporation's net income.

953 **SECTION 15.** Section 79-29-127, Mississippi Code of 1972, is
954 brought forward as follows:

955 79-29-127. Domestic limited liability companies and foreign
956 limited liability companies shall be classified as an entity for
957 purposes of the income tax laws of this state in the same manner
958 as they are classified for federal income tax purposes.

959 **SECTION 16.** Section 1 of this act shall be codified as a new
960 section in Chapter 7, Title 27, Mississippi Code of 1972.

961 **SECTION 17.** This act shall take effect and be in force from
962 and after January 1, 2022.

