

**Adopted
AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 3163

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

18 **SECTION 1.** (1) The following words and phrases shall have
19 the meanings as defined in this section unless the context clearly
20 indicates otherwise:

21 (a) "Eligible taxpayer" means any railroad that is
22 classified by the United States Surface Transportation Board as a
23 Class II or Class III railroad.

24 (b) "Eligible transferee" means any taxpayer having a
25 liability for taxes under this chapter.

26 (c) "Qualified railroad reconstruction or replacement
27 expenditures" means gross expenditures for maintenance,



reconstruction or replacement of railroad infrastructure,
including track, roadbed, bridges, industrial leads and sidings,
and track-related structures owned or leased by a Class II or
Class III railroad in Mississippi as of January 1, 2022.

(d) "Qualified new rail infrastructure expenditures"
means gross expenditures for new construction of industrial leads,
switches, spurs and sidings and extensions of existing sidings,
for serving new customer locations or expansions in Mississippi,
by a Class II or Class III railroad located in Mississippi.

(2) Subject to the provisions of this section, an eligible
taxpayer making qualified railroad reconstruction or replacement
expenditures shall be allowed a credit against the taxes imposed
under this chapter. The credit shall be for an amount equal to
the lesser of fifty percent (50%) of an eligible taxpayer's
qualified railroad reconstruction or replacement expenditures for
the taxable year or the product of Five Thousand Dollars
(\$5,000.00) multiplied by the number of miles of railroad track
owned or leased within the State of Mississippi by the eligible
taxpayer as of the close of the taxable year. For qualified new
rail infrastructure expenditures, the credit shall be for an
amount equal to the lesser of fifty percent (50%) of an eligible
taxpayer's qualified new rail infrastructure expenditures for the
taxable year, capped at One Million Dollars (\$1,000,000.00) per
new rail-served customer project. However, the tax credit shall
not exceed the amount of tax imposed upon the taxpayer for the



53 taxable year reduced by the sum of all other credits allowable to
54 the taxpayer under this chapter, except credit for tax payments
55 made by or on behalf of the taxpayer. Any tax credit claimed
56 under this section but not used in any taxable year may be carried
57 forward for five (5) consecutive years from the close of the
58 taxable year in which the credit was earned. The aggregate amount
59 of credits that may be claimed by all taxpayers claiming a credit
60 under this section during a calendar year shall not exceed Ten
61 Million Dollars (\$10,000,000.00). In addition, an eligible
62 taxpayer may transfer by written agreement any unused tax credit
63 to an eligible transferee at any time during the year in which the
64 credit is earned and the five (5) years following the taxable year
65 in which the qualified railroad reconstruction or replacement
66 expenditures or the qualified new rail infrastructure expenditures
67 are made. The eligible taxpayer and the eligible transferee must
68 jointly file a copy of the written transfer agreement with the
69 Department of Revenue within thirty (30) days of the transfer.
70 The written agreement must contain the: (a) name, address, and
71 taxpayer identification number of the parties to the transfer; (b)
72 taxable year the eligible taxpayer incurred the qualified railroad
73 reconstruction or replacement expenditures or the qualified new
74 rail infrastructure expenditures; (c) amount of credit being
75 transferred; and (d) taxable year or years for which the credit
76 may be claimed by the eligible transferee.



77 **SECTION 2.** (1) As used in this section, the following words
78 shall have the meanings ascribed herein unless the context clearly
79 requires otherwise:

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

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

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

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

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

96 (2) Subject to the provisions of this section, for calendar
97 year 2023 and each calendar year thereafter, through calendar year
98 2028, a taxpayer that is an employer shall be allowed a credit
99 against the taxes imposed under this chapter for each verified
100 blood donation made by an employee as part of a blood drive. The
101 credit shall be for an amount equal to Twenty Dollars (\$20.00) for



each verified donation. However, the tax credit shall not exceed the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits allowable to the taxpayer under this chapter, except credit for tax payments made by or on behalf of the taxpayer. The maximum aggregate amount of tax credits that may be claimed by all taxpayers claiming a credit under this section in a taxable year shall not exceed Five Hundred Thousand Dollars (\$500,000.00). The department shall annually calculate and publish a percentage by which the tax credit authorized by this section shall be reduced so the maximum aggregate amount of tax credits claimed by all taxpayers claiming a credit in a taxable year does not exceed Five Hundred Thousand Dollars (\$500,000.00).

SECTION 3. Section 27-7-17, Mississippi Code of 1972, as amended by Senate Bill No. 2095, 2022 Regular Session, and House Bill No. 1529, 2022 Regular Session, is amended as follows:

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

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

(1) **Business deductions.**

(a) **Business expenses.** All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually



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

(b) **Interest.** All interest paid or accrued during the taxable year on business indebtedness, except interest upon the indebtedness for the purchase of tax-free bonds, or any stocks, the dividends from which are nontaxable under the provisions of this article; provided, however, in the case of securities dealers, interest payments or accruals on loans, the proceeds of which are used to purchase tax-exempt securities, shall be deductible if income from otherwise tax-free securities is reported as income. Investment interest expense shall be limited to investment income. Interest expense incurred for the purchase of treasury stock, to pay dividends, or incurred as a result of an undercapitalized affiliated corporation may not be deducted unless an ordinary and necessary business purpose can be established to the satisfaction of the commissioner. For the purposes of this



paragraph, the phrase "interest upon the indebtedness for the purchase of tax-free bonds" applies only to the indebtedness incurred for the purpose of directly purchasing tax-free bonds and does not apply to any other indebtedness incurred in the regular course of the taxpayer's business. Any corporation, association, organization or other entity taxable under Section 27-7-23(c) shall allocate interest expense as provided in Section 27-7-23(c) (3) (I) .

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

(d) **Business losses.**

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

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



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

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

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

199 (h) **Contributions or gifts.** Except as otherwise
200 provided in paragraph (p) of this subsection or subsection (3)(a)



of this section for individuals, contributions or gifts made by corporations within the taxable year to corporations, organizations, associations or institutions, including Community Chest funds, foundations and trusts created solely and exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inure to the benefit of any private stockholder or individual. This deduction shall be allowed in an amount not to exceed twenty percent (20%) of the net income. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner, with the approval of the Governor. Contributions made in any form other than cash shall be allowed as a deduction, subject to the limitations herein provided, in an amount equal to the actual market value of the contributions at the time the contribution is actually made and consummated.

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

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



(k) **Contributions to employee pension plans.**

Contributions made by an employer to a plan or a trust forming part of a pension plan, stock bonus plan, disability or death-benefit plan, or profit-sharing plan of such employer for the exclusive benefit of some or all of his, their, or its employees, or their beneficiaries, shall be deductible from his, their, or its income only to the extent that, and for the taxable year in which, the contribution is deductible for federal income tax purposes under the Internal Revenue Code of 1986 and any other provisions of similar purport in the Internal Revenue Laws of the United States, and the rules, regulations, rulings and determinations promulgated thereunder, provided that:

(i) The plan or trust be irrevocable.

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

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

Contributions to all plans or to all trusts of real or personal property (or real and personal property combined) or to



insured plans created under a retirement plan for which provision has been made under the laws of the United States of America, making such contributions deductible from income for federal income tax purposes, shall be deductible only to the same extent under the Income Tax Laws of the State of Mississippi.

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

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

A net operating loss for any taxable year ending after December 31, 2001, and taxable years thereafter, shall be a net operating loss carryback to each of the two (2) taxable years preceding the taxable year of the loss. If the net operating loss



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

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

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

(ii) No personal exemption deduction shall be allowed.

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

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



the election is to be in effect. The election, once made for any taxable year, shall be irrevocable for that taxable year.

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

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

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

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



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

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

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

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

(p) **Contributions of human pharmaceutical products.** To the extent that a "major supplier" as defined in Section 27-13-13(2) (d) contributes human pharmaceutical products in excess of Two Hundred Fifty Million Dollars (\$250,000,000.00) as determined under Section 170 of the Internal Revenue Code, the charitable contribution limitation associated with those donations



shall follow the federal limitation but cannot result in the Mississippi net income being reduced below zero.

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

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

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

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

(i) "Intangible expenses and costs" include:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income under this chapter;
2. Expenses or losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;
3. Royalty, patent, technical and copyright fees;
4. Licensing fees; and
5. Other similar expenses and costs.



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

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

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

(v) "Related entity" means:

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

2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or



corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own, directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

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

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

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

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



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

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

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

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

(3) Individual nonbusiness deductions.

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



444 (i) The deduction for state income taxes paid or
445 other taxes allowed for federal purposes in lieu of state income
446 taxes paid;

447 (ii) The deduction for gaming losses from gaming
448 establishments;

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

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

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

458 (i) Three Thousand Four Hundred Dollars
459 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
460 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
461 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
462 in the case of married individuals filing a joint or combined
463 return;

464 (ii) One Thousand Seven Hundred Dollars
465 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
466 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
467 Three Hundred Dollars (\$2,300.00) for each calendar year



thereafter in the case of married individuals filing separate returns;

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

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

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

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

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

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



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

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

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

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

(1) **Business deductions.**

(a) **Business expenses.** All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; nonreimbursable traveling expenses incident to current employment, including a reasonable amount expended for meals and



lodging while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition of the continued use or possession, for purposes of the trade or business of property to which the taxpayer has not taken or is not taking title or in which he had no equity. Expense incurred in connection with earning and distributing nontaxable income is not an allowable deduction. Limitations on entertainment expenses shall conform to the provisions of the Internal Revenue Code of 1986. There shall also be allowed a deduction for expenses as provided in Section 26 of Senate Bill No. 2095, 2022 Regular Session.

(b) **Interest.** All interest paid or accrued during the taxable year on business indebtedness, except interest upon the indebtedness for the purchase of tax-free bonds, or any stocks, the dividends from which are nontaxable under the provisions of this article; provided, however, in the case of securities dealers, interest payments or accruals on loans, the proceeds of which are used to purchase tax-exempt securities, shall be deductible if income from otherwise tax-free securities is reported as income. Investment interest expense shall be limited to investment income. Interest expense incurred for the purchase of treasury stock, to pay dividends, or incurred as a result of an undercapitalized affiliated corporation may not be deducted unless an ordinary and necessary business purpose can be established to the satisfaction of the commissioner. For the purposes of this



paragraph, the phrase "interest upon the indebtedness for the purchase of tax-free bonds" applies only to the indebtedness incurred for the purpose of directly purchasing tax-free bonds and does not apply to any other indebtedness incurred in the regular course of the taxpayer's business. Any corporation, association, organization or other entity taxable under Section 27-7-23(c) shall allocate interest expense as provided in Section 27-7-23(c) (3) (I) .

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

(d) **Business losses.**

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

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



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

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

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

590 (h) **Contributions or gifts.** Except as otherwise
591 provided in paragraph (p) of this subsection or subsection (3)(a)



of this section for individuals, contributions or gifts made by corporations within the taxable year to corporations, organizations, associations or institutions, including Community Chest funds, foundations and trusts created solely and exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inure to the benefit of any private stockholder or individual. This deduction shall be allowed in an amount not to exceed twenty percent (20%) of the net income. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner, with the approval of the Governor. Contributions made in any form other than cash shall be allowed as a deduction, subject to the limitations herein provided, in an amount equal to the actual market value of the contributions at the time the contribution is actually made and consummated.

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

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



(k) **Contributions to employee pension plans.**

Contributions made by an employer to a plan or a trust forming part of a pension plan, stock bonus plan, disability or death-benefit plan, or profit-sharing plan of such employer for the exclusive benefit of some or all of his, their, or its employees, or their beneficiaries, shall be deductible from his, their, or its income only to the extent that, and for the taxable year in which, the contribution is deductible for federal income tax purposes under the Internal Revenue Code of 1986 and any other provisions of similar purport in the Internal Revenue Laws of the United States, and the rules, regulations, rulings and determinations promulgated thereunder, provided that:

(i) The plan or trust be irrevocable.

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

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

Contributions to all plans or to all trusts of real or personal property (or real and personal property combined) or to



insured plans created under a retirement plan for which provision has been made under the laws of the United States of America, making such contributions deductible from income for federal income tax purposes, shall be deductible only to the same extent under the Income Tax Laws of the State of Mississippi.

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

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

A net operating loss for any taxable year ending after December 31, 2001, and taxable years thereafter, shall be a net operating loss carryback to each of the two (2) taxable years preceding the taxable year of the loss. If the net operating loss



666 for any taxable year is not exhausted by carrybacks to the two (2)
667 taxable years preceding the taxable year of the loss, then there
668 shall be a net operating loss carryover to each of the twenty (20)
669 taxable years following the taxable year of the loss beginning
670 with any taxable year after the taxable year of the loss.

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

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

677 (ii) No personal exemption deduction shall be
678 allowed.

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

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



the election is to be in effect. The election, once made for any taxable year, shall be irrevocable for that taxable year.

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

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

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

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



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

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

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

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

(p) **Contributions of human pharmaceutical products.** To the extent that a "major supplier" as defined in Section 27-13-13(2) (d) contributes human pharmaceutical products in excess of Two Hundred Fifty Million Dollars (\$250,000,000.00) as determined under Section 170 of the Internal Revenue Code, the charitable contribution limitation associated with those donations



shall follow the federal limitation but cannot result in the Mississippi net income being reduced below zero.

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

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

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

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

(i) "Intangible expenses and costs" include:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income under this chapter;
2. Expenses or losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;
3. Royalty, patent, technical and copyright fees;
4. Licensing fees; and
5. Other similar expenses and costs.



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

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

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

(v) "Related entity" means:

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

2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or



787 corporation, if the stockholder and the stockholder's
788 partnerships, limited liability companies, estates, trusts and
789 corporations own, directly, indirectly, beneficially or
790 constructively, in the aggregate, at least fifty percent (50%) of
791 the value of the taxpayer's outstanding stock;

792 3. A corporation, or a party related to the
793 corporation in a manner that would require an attribution of stock
794 from the corporation to the party or from the party to the
795 corporation, if the taxpayer owns, directly, indirectly,
796 beneficially or constructively, at least fifty percent (50%) of
797 the value of the corporation's outstanding stock under regulation
798 prescribed by the commissioner;

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

802 (b) In computing net income, a taxpayer shall add back
803 otherwise deductible interest expenses and costs and intangible
804 expenses and costs directly or indirectly paid, accrued to or
805 incurred, in connection directly or indirectly with one or more
806 direct or indirect transactions with one or more related members.

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



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

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

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

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

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

831 (a) The amount allowable for individual nonbusiness
832 itemized deductions for federal income tax purposes where the
833 individual is eligible to elect, for the taxable year, to itemize
834 deductions on his federal return except the following:



835 (i) The deduction for state income taxes paid or
836 other taxes allowed for federal purposes in lieu of state income
837 taxes paid;

838 (ii) The deduction for gaming losses from gaming
839 establishments;

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

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

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

849 (i) Three Thousand Four Hundred Dollars
850 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
851 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
852 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
853 in the case of married individuals filing a joint or combined
854 return;

855 (ii) One Thousand Seven Hundred Dollars
856 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
857 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
858 Three Hundred Dollars (\$2,300.00) for each calendar year



859 thereafter in the case of married individuals filing separate
860 returns;

861 (iii) Three Thousand Four Hundred Dollars
862 (\$3,400.00) in the case of a head of family; or
863 (iv) Two Thousand Three Hundred Dollars
864 (\$2,300.00) in the case of an individual who is not married.

865 In the case of a husband and wife living together, having
866 separate incomes, and filing combined returns, the standard
867 deduction authorized may be divided in any manner they choose. In
868 the case of separate returns by a husband and wife, the standard
869 deduction shall not be allowed to either if the taxable income of
870 one of the spouses is determined without regard to the standard
871 deduction.

872 (c) A nonresident individual shall be allowed the same
873 individual nonbusiness deductions as are authorized for resident
874 individuals in paragraph (a) or (b) of this subsection; however,
875 the nonresident individual is entitled only to that proportion of
876 the individual nonbusiness deductions as his net income from
877 sources within the State of Mississippi bears to his total or
878 entire net income from all sources.

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

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



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

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

898 **SECTION 4.** Sections 1 and 2 of this act shall be codified as
899 new sections in Chapter 7, Title 27, Mississippi Code of 1972.

900 **SECTION 5.** Nothing in this act shall affect or defeat any
901 claim, assessment, appeal, suit, right or cause of action for
902 taxes due or accrued under the income tax laws before the date on
903 which this act becomes effective, whether such claims,
904 assessments, appeals, suits or actions have been begun before the
905 date on which this act becomes effective or are begun thereafter;
906 and the provisions of the income tax laws are expressly continued
907 in full force, effect and operation for the purpose of the
908 assessment, collection and enrollment of liens for any taxes due



909 or accrued and the execution of any warrant under such laws before
910 the date on which this act becomes effective, and for the
911 imposition of any penalties, forfeitures or claims for failure to
912 comply with such laws.

913 **SECTION 6.** Section 3 of this act shall take effect and be in
914 force from and after January 1, 2020, and the remaining sections
915 of this act shall take effect and be in force from and after
916 January 1, 2022.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AUTHORIZE AN INCOME TAX CREDIT FOR CERTAIN RAILROAD
2 RECONSTRUCTION OR REPLACEMENT EXPENDITURES AND FOR CERTAIN NEW
3 RAIL INFRASTRUCTURE EXPENDITURES MADE BY CLASS II AND CLASS III
4 RAILROADS; TO DEFINE CERTAIN TERMS FOR THE PURPOSES OF THIS ACT;
5 TO PROVIDE THE AMOUNT OF THE TAX CREDIT; TO PROVIDE THAT ANY UNUSED
6 PORTION OF THE TAX CREDIT MAY BE CARRIED FORWARD; TO PROVIDE THAT
7 ANY UNUSED PORTION OF THE TAX CREDIT MAY BE TRANSFERRED TO ANOTHER
8 TAXPAYER; TO AUTHORIZE AN INCOME TAX CREDIT FOR TAXPAYERS FOR
9 BLOOD DONATIONS MADE BY EMPLOYEES OF A TAXPAYER DURING A BLOOD
10 DRIVE; TO DEFINE CERTAIN TERMS; TO PROVIDE FOR THE AMOUNT OF THE
11 TAX CREDIT; TO AMEND SECTION 27-7-17, MISSISSIPPI CODE OF 1972, AS
12 AMENDED BY SENATE BILL NO. 2095, 2022 REGULAR SESSION, AND HOUSE
13 BILL NO. 1529, 2022 REGULAR SESSION, TO CONFORM TO AMENDMENTS MADE
14 TO THAT SECTION BY SENATE BILL NO. 2095, 2022 REGULAR SESSION, AND
15 HOUSE BILL NO. 1529, 2022 REGULAR SESSION; AND FOR RELATED
16 PURPOSES.

