

**Adopted
AMENDMENT NO 2 PROPOSED TO**

House Bill No. 1733

BY: Senator(s) Harkins, Johnson

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

7 **SECTION 1.** Section 27-7-17, Mississippi Code of 1972, as
8 amended by House Bill No. 1125, 2023 Regular Session, is amended
9 as follows:

10 27-7-17. In computing taxable income, there shall be allowed
11 as deductions:

12 (1) **Business deductions.**

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



17 rendered; nonreimbursable traveling expenses incident to current
18 employment, including a reasonable amount expended for meals and
19 lodging while away from home in the pursuit of a trade or
20 business; and rentals or other payments required to be made as a
21 condition of the continued use or possession, for purposes of the
22 trade or business of property to which the taxpayer has not taken
23 or is not taking title or in which he had no equity. Expense
24 incurred in connection with earning and distributing nontaxable
25 income is not an allowable deduction. Limitations on
26 entertainment expenses shall conform to the provisions of the
27 Internal Revenue Code of 1986. There shall also be allowed a
28 deduction for expenses as provided in Section 41-137-51.

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



42 the satisfaction of the commissioner. For the purposes of this
43 paragraph, the phrase "interest upon the indebtedness for the
44 purchase of tax-free bonds" applies only to the indebtedness
45 incurred for the purpose of directly purchasing tax-free bonds and
46 does not apply to any other indebtedness incurred in the regular
47 course of the taxpayer's business. Any corporation, association,
48 organization or other entity taxable under Section 27-7-23(c)
49 shall allocate interest expense as provided in Section
50 27-7-23(c) (3) (I).

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

60 (d) **Business losses.**

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

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



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

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

83 (ii) 1. For the purposes of computing income tax
84 for tax years beginning after December 31, 2022, a taxpayer may
85 treat specified research or experimental expenditures that are
86 paid or incurred by the taxpayer during the tax year in connection
87 with the taxpayer's trade or business as expenses that are not
88 chargeable to the capital account. Such expenditures so treated
89 shall be allowed as an immediate deduction. Such expenditures
90 shall remain allowable as a full and immediate expense deduction
91 in the year in which the expenses are incurred notwithstanding any



92 changes to the federal Internal Revenue Code related to the
93 depreciation of such specified research or experimental
94 expenditures. A taxpayer may alternatively treat the depreciation
95 of such specified research or experimental expenditures in
96 accordance with the schedule provided in 26 USCS Section 174. A
97 taxpayer may make an election whether to take a full and immediate
98 deduction for such expenditures and/or to depreciate the
99 expenditures in accordance with 26 USCS Section 174. Such an
100 election may be made for any tax year if made not later than the
101 time prescribed by law for filing the return for such tax year,
102 including extensions thereof. The method so elected by the
103 taxpayer is irrevocable unless the commissioner specifically
104 allows a change in the method.

105 2. For the purpose of computing income tax
106 for tax years beginning after December 31, 2022, expenditures for
107 business assets that are qualified property or qualified
108 improvement property shall be eligible for one hundred percent
109 (100%) bonus depreciation and may be deducted as an expense
110 incurred by the taxpayer during the tax year during which the
111 property is placed in service, notwithstanding any changes to
112 federal law related to cost recovery beginning on January 1, 2023,
113 or on any other date. A taxpayer may alternatively treat the
114 depreciation of such business assets in accordance with the
115 schedule provided in 26 USCS Section 168. A taxpayer may make an
116 election whether to take a bonus depreciation deduction for such



117 expenditures and/or to depreciate the expenditures in accordance
118 with 26 USCS Section 168. Such an election may be made for any
119 tax year if made not later than the time prescribed by law for
120 filing the return for such tax year, including extensions thereof.
121 The method so elected by the taxpayer is irrevocable unless the
122 commissioner specifically allows a change in the method.

123 3. In any taxable year in which any 26 USCS
124 Section 179 property is placed in service, a taxpayer may elect to
125 treat the cost of such property as an expense which is not
126 chargeable to a capital account, and any cost so treated shall be
127 allowed as a deduction for that year. Mississippi's treatment of
128 the deduction shall conform to the provisions of 26 USCS Section
129 179 in effect for that year.

130 4. For the purposes of this subparagraph
131 (ii), unless the context requires otherwise, the following terms
132 shall have the meanings ascribed herein:

133 a. "Qualified improvement property"
134 means and has the same definition as such term has in 26 USCS
135 Section 168(e)(6) as it existed on January 1, 2021, and shall
136 apply to property placed in service after December 31, 2022.

137 b. "Qualified property" means and has
138 the same definition as such term has in 26 USCS Section 168(k) as
139 it existed on January 1, 2021, and shall apply to property placed
140 in service after December 31, 2022.



141 c. "Specified research or experimental
142 expenditures" means and has the same definition as such term has
143 in 26 USCS Section 174 as it existed on January 1, 2021.

144 5. Nothing in this subparagraph (ii) shall be
145 construed to nullify or otherwise alter the treatment of
146 depreciation expenses for any tax year prior to 2023.

147 6. The total of any method or combination of
148 methods of depreciation used under this subparagraph (ii) cannot
149 exceed one hundred percent (100%) of the cost of the subject
150 property.

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

158 (h) **Contributions or gifts.** Except as otherwise
159 provided in paragraph (p) of this subsection or subsection (3) (a)
160 of this section for individuals, contributions or gifts made by
161 corporations within the taxable year to corporations,
162 organizations, associations or institutions, including Community
163 Chest funds, foundations and trusts created solely and exclusively
164 for religious, charitable, scientific or educational purposes, or
165 for the prevention of cruelty to children or animals, no part of



166 the net earnings of which inure to the benefit of any private
167 stockholder or individual. This deduction shall be allowed in an
168 amount not to exceed twenty percent (20%) of the net income. Such
169 contributions or gifts shall be allowable as deductions only if
170 verified under rules and regulations prescribed by the
171 commissioner, with the approval of the Governor. Contributions
172 made in any form other than cash shall be allowed as a deduction,
173 subject to the limitations herein provided, in an amount equal to
174 the actual market value of the contributions at the time the
175 contribution is actually made and consummated.

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

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

184 (k) **Contributions to employee pension plans.**
185 Contributions made by an employer to a plan or a trust forming
186 part of a pension plan, stock bonus plan, disability or
187 death-benefit plan, or profit-sharing plan of such employer for
188 the exclusive benefit of some or all of his, their, or its
189 employees, or their beneficiaries, shall be deductible from his,
190 their, or its income only to the extent that, and for the taxable



191 year in which, the contribution is deductible for federal income
192 tax purposes under the Internal Revenue Code of 1986 and any other
193 provisions of similar purport in the Internal Revenue Laws of the
194 United States, and the rules, regulations, rulings and
195 determinations promulgated thereunder, provided that:

196 (i) The plan or trust be irrevocable.

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

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

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

214 (1) **Net operating loss carrybacks and carryovers.** A
215 net operating loss for any taxable year ending after December 31,



216 1993, and taxable years thereafter, shall be a net operating loss
217 carryback to each of the three (3) taxable years preceding the
218 taxable year of the loss. If the net operating loss for any
219 taxable year is not exhausted by carrybacks to the three (3)
220 taxable years preceding the taxable year of the loss, then there
221 shall be a net operating loss carryover to each of the fifteen
222 (15) taxable years following the taxable year of the loss
223 beginning with any taxable year after December 31, 1991.

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

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

239 The term "net operating loss," for the purposes of this
240 paragraph, shall be the excess of the deductions allowed over the



241 gross income; provided, however, the following deductions shall
242 not be allowed in computing same:

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

245 (ii) No personal exemption deduction shall be
246 allowed.

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

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

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



266 (n) **Dividend distributions - real estate investment**
267 **trusts.** "Real estate investment trust" (hereinafter referred to
268 as REIT) shall have the meaning ascribed to such term in Section
269 856 of the federal Internal Revenue Code of 1986, as amended. A
270 REIT is allowed a dividend distributed deduction if the dividend
271 distributions meet the requirements of Section 857 or are
272 otherwise deductible under Section 858 or 860, federal Internal
273 Revenue Code of 1986, as amended. In addition:

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

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

283 (iii) A holding corporation receiving a dividend
284 from a REIT shall not be allowed the deduction in Section
285 27-7-15(4) (t).

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



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

294 (o) **Contributions to college savings trust fund**
295 **accounts.** Contributions or payments to a Mississippi Affordable
296 College Savings Program account are deductible as provided under
297 Section 37-155-113. Payments made under a prepaid tuition
298 contract entered into under the Mississippi Prepaid Affordable
299 College Tuition Program are deductible as provided under Section
300 37-155-17.

301 (p) **Contributions of human pharmaceutical products.** To
302 the extent that a "major supplier" as defined in Section
303 27-13-13(2) (d) contributes human pharmaceutical products in excess
304 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as
305 determined under Section 170 of the Internal Revenue Code, the
306 charitable contribution limitation associated with those donations
307 shall follow the federal limitation but cannot result in the
308 Mississippi net income being reduced below zero.

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

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



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

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

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

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

326 3. Royalty, patent, technical and copyright
327 fees;

328 4. Licensing fees; and

329 5. Other similar expenses and costs.

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

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



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

346 (v) "Related entity" means:

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

353 2. A stockholder, or a stockholder's
354 partnership, limited liability company, estate, trust or
355 corporation, if the stockholder and the stockholder's
356 partnerships, limited liability companies, estates, trusts and
357 corporations own, directly, indirectly, beneficially or
358 constructively, in the aggregate, at least fifty percent (50%) of
359 the value of the taxpayer's outstanding stock;

360 3. A corporation, or a party related to the
361 corporation in a manner that would require an attribution of stock
362 from the corporation to the party or from the party to the
363 corporation, if the taxpayer owns, directly, indirectly,
364 beneficially or constructively, at least fifty percent (50%) of



365 the value of the corporation's outstanding stock under regulation
366 prescribed by the commissioner;

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

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

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

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

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



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

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

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

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

403 (i) The deduction for state income taxes paid or
404 other taxes allowed for federal purposes in lieu of state income
405 taxes paid;

406 (ii) The deduction for gaming losses from gaming
407 establishments;

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

410 (iv) The deduction for taxes collected by gaming
411 establishments pursuant to Section 27-7-903; and



412 (v) The deduction for medical expenses for the
413 provision of gender transition procedures as defined in Section 2
414 of House Bill No. 1125, 2023 Regular Session.

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

420 (i) Three Thousand Four Hundred Dollars
421 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
422 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
423 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
424 in the case of married individuals filing a joint or combined
425 return;

426 (ii) One Thousand Seven Hundred Dollars
427 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
428 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
429 Three Hundred Dollars (\$2,300.00) for each calendar year
430 thereafter in the case of married individuals filing separate
431 returns;

432 (iii) Three Thousand Four Hundred Dollars
433 (\$3,400.00) in the case of a head of family; or

434 (iv) Two Thousand Three Hundred Dollars
435 (\$2,300.00) in the case of an individual who is not married.



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

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

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

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

455 (a) The payment(s) for such deductible expenses are
456 made with the grant or loan program of the Paycheck Protection
457 Program as authorized under (i) the Coronavirus Aid, Relief, and
458 Economic Security (CARES) Act and the Consolidated Appropriations
459 Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan
460 Program, (iii) the 2020 COVID-19 Mississippi Business Assistance



461 Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered
462 Venue Operators Grant Program and Restaurant Revitalization Fund
463 authorized by the Economic Aid to Hard-Hit Small Businesses,
464 Nonprofits, and Venues Act, and amended by the federal American
465 Rescue Plan Act, and/or (vi) the Mississippi Agriculture
466 Stabilization Act; and

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

469 **SECTION 2.** This act shall take effect and be in force from
470 and after January 1, 2023.

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

1 AN ACT TO AMEND SECTION 27-7-17, MISSISSIPPI CODE OF 1972, AS
2 AMENDED BY HOUSE BILL NO. 1125, 2023 REGULAR SESSION, TO REVISE
3 THE METHODS OF DEPRECIATION THAT MAY BE USED FOR CERTAIN
4 EXPENDITURES AND PROPERTY UNDER THE STATE INCOME TAX LAW; AND FOR
5 RELATED PURPOSES.

