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COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1733

BY: Committee

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

14 **SECTION 1.** (1) This section shall be known and may be cited
15 as the "Mississippi Full Expensing Tax Reform Act of 2023."

16 (2) The purpose of this section is to reform Mississippi's
17 tax code to incentivize greater supply chain investment, job
18 creation, wage growth and economic well-being within Mississippi,
19 and to make Mississippi's tax code more competitive by allowing
20 first-year full cost recovery for certain business investments.

21 (3) As used in this section, the following terms shall have
22 the meanings ascribed unless the context clearly indicates
23 otherwise:



24 (a) "Internal Revenue Code" or "IRC" means Title 26 of
25 the United States Code.

26 (b) "Research and development experimental
27 expenditures" has the meaning in IRC Section 174, as it existed on
28 January 1, 2021.

29 (c) "Qualified property" has the meaning in IRC Section
30 168(k), as it existed on January 1, 2021, and applies to property
31 placed in service after December 31, 2022.

32 (d) "Qualified improvement property" has the meaning in
33 IRC Section 168(e)(6), as it existed on January 1, 2021, and
34 applies to property placed in service after December 31, 2022.

35 (e) "Full expensing" and "one hundred percent (100%)
36 bonus depreciation" are methods for taxpayers to recover their
37 costs for certain expenditures in research and experimentation and
38 depreciable business assets by immediately deducting the full cost
39 of such expenditures from taxable income in the tax year in which
40 the cost is incurred or the property is placed in service.

41 (4) Regarding research and development experimental
42 expenditures:

43 (a) For purposes of computing income tax for tax years
44 beginning after December 31, 2022, a taxpayer may treat research
45 or experimental expenditures paid or incurred by the taxpayer
46 during the tax year in connection with the taxpayer's trade or
47 business as expenses that are not chargeable to the capital
48 account. Expenditures so treated shall be allowed as an immediate



deduction. Such expenditures shall remain allowable as a full and immediate expense deduction in the year in which the expenses are incurred, notwithstanding any changes to the Internal Revenue Code related to the depreciation of such research or experimental expenditures.

(b) A taxpayer may alternatively treat the depreciation of such research or experimental expenditures in accordance with the schedule provided in IRC Section 174.

(c) A taxpayer may make an election for any tax year if made not later than the time prescribed by law for filing the return for the tax year, including extensions thereof. The method elected by the taxpayer, whether to take a full and immediate deduction for the expenditures or to depreciate the expenditures in accordance with IRC Section 174, is irrevocable unless the Commissioner of Revenue specifically allows a change in the method.

(d) The total amount of expenditures fully and immediately expensed and of expenditures depreciated on a schedule may not exceed one hundred percent (100%) of the cost of the property.

(5) Regarding qualified property and qualified improvement property:

(a) For purposes of computing income tax for tax years beginning after December 31, 2022, expenditures for business assets that are qualified property or qualified improvement



74 property shall be eligible for one hundred percent (100%) bonus
75 depreciation and may be deducted as an expense incurred by the
76 taxpayer during the tax year during which the property is placed
77 in service, notwithstanding any changes to federal law related to
78 cost recovery beginning on January 1, 2023, or on any other date.

79 (b) A taxpayer may alternatively treat the depreciation
80 of such business assets in accordance with the schedule provided
81 in IRC Section 168.

82 (c) A taxpayer may make an election whether to take a
83 bonus depreciation deduction for such expenditures or to
84 depreciate the expenditures in accordance with IRC Section 168.
85 The election may be made for any tax year if made not later than
86 the time prescribed by law for filing the return for the tax year,
87 including extensions thereof. The method elected by the taxpayer
88 is irrevocable unless the Commissioner of Revenue specifically
89 allows a change in the method.

90 (d) For tax years beginning after December 31, 2022,
91 Mississippi shall conform to the full expensing provisions of IRC
92 Section 179.

93 (e) The total amount of expenditures fully and
94 immediately expensed and of expenditures depreciated on a schedule
95 may not exceed one hundred percent (100%) of the cost of the
96 property.



(6) The Department of Revenue shall, within ninety (90) days of the effective date of this act, develop rules for the implementation of this section.

SECTION 2. Section 27-7-17, Mississippi Code of 1972, as amended by House Bill No. 1125, 2023 Regular Session, is brought forward 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 41-137-51.



122 (b) **Interest.** All interest paid or accrued during the
123 taxable year on business indebtedness, except interest upon the
124 indebtedness for the purchase of tax-free bonds, or any stocks,
125 the dividends from which are nontaxable under the provisions of
126 this article; provided, however, in the case of securities
127 dealers, interest payments or accruals on loans, the proceeds of
128 which are used to purchase tax-exempt securities, shall be
129 deductible if income from otherwise tax-free securities is
130 reported as income. Investment interest expense shall be limited
131 to investment income. Interest expense incurred for the purchase
132 of treasury stock, to pay dividends, or incurred as a result of an
133 undercapitalized affiliated corporation may not be deducted unless
134 an ordinary and necessary business purpose can be established to
135 the satisfaction of the commissioner. For the purposes of this
136 paragraph, the phrase "interest upon the indebtedness for the
137 purchase of tax-free bonds" applies only to the indebtedness
138 incurred for the purpose of directly purchasing tax-free bonds and
139 does not apply to any other indebtedness incurred in the regular
140 course of the taxpayer's business. Any corporation, association,
141 organization or other entity taxable under Section 27-7-23(c)
142 shall allocate interest expense as provided in Section
143 27-7-23(c) (3) (I) .

144 (c) **Taxes.** Taxes paid or accrued within the taxable
145 year, except state and federal income taxes, excise taxes based on
146 or measured by net income, estate and inheritance taxes, gift



taxes, cigar and cigarette taxes, gasoline taxes, and sales and use taxes unless incurred as an item of expense in a trade or business or in the production of taxable income. In the case of an individual, taxes permitted as an itemized deduction under the provisions of subsection (3)(a) of this section are to be claimed thereunder.

(d) **Business losses.**

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

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

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

(f) **Depreciation.** A reasonable allowance for exhaustion, wear and tear of property used in the trade or business, or rental property, and depreciation upon buildings based upon their reasonable value as of March 16, 1912, if acquired prior thereto, and upon cost if acquired subsequent to that date. In the case of new or used aircraft, equipment,



engines, or other parts and tools used for aviation, allowance for bonus depreciation conforms with the federal bonus depreciation rates and reasonable allowance for depreciation under this section is no less than one hundred percent (100%).

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

(h) **Contributions or gifts.** Except as otherwise 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.



371 (v) "Related entity" means:

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

378 2. A stockholder, or a stockholder's
379 partnership, limited liability company, estate, trust or
380 corporation, if the stockholder and the stockholder's
381 partnerships, limited liability companies, estates, trusts and
382 corporations own, directly, indirectly, beneficially or
383 constructively, in the aggregate, at least fifty percent (50%) of
384 the value of the taxpayer's outstanding stock;

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

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



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

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

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

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

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

418 (e) The commissioner may prescribe such regulations as
419 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:

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

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

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

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

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

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



445 (i) Three Thousand Four Hundred Dollars
446 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
447 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
448 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
449 in the case of married individuals filing a joint or combined
450 return;

451 (ii) One Thousand Seven Hundred Dollars
452 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
453 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
454 Three Hundred Dollars (\$2,300.00) for each calendar year
455 thereafter in the case of married individuals filing separate
456 returns;

457 (iii) Three Thousand Four Hundred Dollars
458 (\$3,400.00) in the case of a head of family; or

459 (iv) Two Thousand Three Hundred Dollars
460 (\$2,300.00) in the case of an individual who is not married.

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

468 (c) A nonresident individual shall be allowed the same
469 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 (i) the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Consolidated Appropriations Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan Program, (iii) the 2020 COVID-19 Mississippi Business Assistance Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered Venue Operators Grant Program and Restaurant Revitalization Fund authorized by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, and amended by the federal American Rescue Plan Act, and/or (vi) the Mississippi Agriculture Stabilization Act; and

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



494 **SECTION 3.** This act shall take effect and be in force from
495 and after its passage, and shall stand repealed one (1) day before
496 its passage.

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

1 AN ACT TO CREATE THE MISSISSIPPI FULL EXPENSING TAX REFORM
2 ACT OF 2023; TO STATE THE PURPOSE OF THE ACT; TO PROVIDE
3 DEFINITIONS; TO ALLOW THE FULL AND IMMEDIATE EXPENSING OF RESEARCH
4 AND DEVELOPMENT EXPENDITURES OR, ALTERNATIVELY, THE DEPRECIATION
5 OF SUCH EXPENDITURES ON A SCHEDULE; TO ALLOW THE FULL AND
6 IMMEDIATE EXPENSING OF EXPENDITURES FOR QUALIFIED PROPERTY OR
7 QUALIFIED IMPROVEMENT PROPERTY OR, ALTERNATIVELY, THE DEPRECIATION
8 OF SUCH EXPENDITURES ON A SCHEDULE; TO DIRECT THE DEPARTMENT OF
9 REVENUE TO DEVELOP RULES FOR THE IMPLEMENTATION OF THE ACT; TO
10 BRING FORWARD SECTION 27-7-17, MISSISSIPPI CODE OF 1972, AS
11 AMENDED BY HOUSE BILL NO. 1125, 2023 REGULAR SESSION, FOR THE
12 PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

