

By: Zuber, Lott, Ishee, Baker, Barbour,  
Barnett (116th), Creel, Eads, Fillingane,  
Formby, Guice, Janus, Ketchings, Mayo,  
Montgomery (15th), Roberson, Ryals,  
Whittington

To: Ways and Means

## HOUSE BILL NO. 1250

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE DEFINITION OF THE TERM "GROSS INCOME" FOR PURPOSES OF  
3 THE STATE INCOME TAX LAW TO PARTIALLY EXCLUDE COMPENSATION  
4 RECEIVED BY A NONRESIDENT OF THIS STATE FOR ACTIVE FEDERAL SERVICE  
5 AS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES WHILE SUCH  
6 PERSON IS STATIONED IN THE STATE OF MISSISSIPPI; AND FOR RELATED  
7 PURPOSES.

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

9 SECTION 1. Section 27-7-15, Mississippi Code of 1972, is  
10 amended as follows:

11 27-7-15. (1) For the purposes of this article, except as  
12 otherwise provided, the term "gross income" means and includes the  
13 income of a taxpayer derived from salaries, wages, fees or  
14 compensation for service, of whatever kind and in whatever form  
15 paid, including income from governmental agencies and subdivisions  
16 thereof; or from professions, vocations, trades, businesses,  
17 commerce or sales, or renting or dealing in property, or  
18 reacquired property; also from annuities, interest, rents,  
19 dividends, securities, insurance premiums, reinsurance premiums,  
20 considerations for supplemental insurance contracts, or the  
21 transaction of any business carried on for gain or profit, or  
22 gains, or profits, and income derived from any source whatever and  
23 in whatever form paid. The amount of all such items of income  
24 shall be included in the gross income for the taxable year in  
25 which received by the taxpayer. The amount by which an eligible  
26 employee's salary is reduced pursuant to a salary reduction  
27 agreement authorized under Section 25-17-5 shall be excluded from  
28 the term "gross income" within the meaning of this article.

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

32           (a) Dealers in property. Federal rules, regulations  
33 and revenue procedures shall be followed with respect to  
34 installment sales.

35           (b) Casual sales of property. Federal rules,  
36 regulations and revenue procedures shall be followed with respect  
37 to installment sales.

38           (i) The term "installment sale" means a  
39 disposition of property where at least one (1) payment is to be  
40 received after the close of the taxable year in which the  
41 disposition occurs.

42           (ii) The term "installment method" means a method  
43 under which the income recognized for any taxable year from the  
44 disposition is that proportion of the payments received in that  
45 year which the gross profit (realized or to be realized when  
46 payment is completed) bears to the total contract price.

47           (c) Reserves of insurance companies. In the case of  
48 insurance companies, any amounts in excess of the legally required  
49 reserves shall be included as gross income.

50           (d) Affiliated companies or persons. As regards sales,  
51 exchanges or payments for services from one to another of  
52 affiliated companies or persons or under other circumstances where  
53 the relation between the buyer and seller is such that gross  
54 proceeds from the sale or the value of the exchange or the payment  
55 for services are not indicative of the true value of the subject  
56 matter of the sale, exchange or payment for services, the  
57 commissioner shall prescribe uniform and equitable rules for  
58 determining the true value of the gross income, gross sales,  
59 exchanges or payment for services, or require consolidated returns  
60 of affiliates.

61           (e) Alimony and separate maintenance payments. The

62 federal rules, regulations and revenue procedures in determining  
63 the deductibility and taxability of alimony payments shall be  
64 followed in this state.

65 (f) Reimbursement for expenses of moving. There shall  
66 be included in gross income (as compensation for services) any  
67 amount received or accrued, directly or indirectly, by an  
68 individual as a payment for or reimbursement of expenses of moving  
69 from one residence to another residence which is attributable to  
70 employment or self-employment.

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

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

76 (a) The proceeds of life insurance policies and  
77 contracts paid upon the death of the insured. However, the income  
78 from the proceeds of such policies or contracts shall be included  
79 in the gross income.

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

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

87 (d) Interest upon the obligations of the United States  
88 or its possessions, or securities issued under the provisions of  
89 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the  
90 War Finance Corporation, or obligations of the State of  
91 Mississippi or political subdivisions thereof.

92 (e) The amounts received through accident or health  
93 insurance as compensation for personal injuries or sickness, plus  
94 the amount of any damages received for such injuries or such

95 sickness or injuries, or through the War Risk Insurance Act, or  
96 any law for the benefit or relief of injured or disabled members  
97 of the military or naval forces of the United States.

98 (f) Income received by any religious denomination or by  
99 any institution or trust for moral or mental improvements,  
100 religious, Bible, tract, charitable, benevolent, fraternal,  
101 missionary, hospital, infirmary, educational, scientific,  
102 literary, library, patriotic, historical or cemetery purposes or  
103 for two (2) or more of such purposes, if such income be used  
104 exclusively for carrying out one or more of such purposes.

105 (g) Income received by a domestic corporation which is  
106 "taxable in another state" as this term is defined in this  
107 article, derived from business activity conducted outside this  
108 state. Domestic corporations taxable both within and without the  
109 state shall determine Mississippi income on the same basis as  
110 provided for foreign corporations under the provisions of this  
111 article.

112 (h) In case of insurance companies, there shall be  
113 excluded from gross income such portion of actual premiums  
114 received from an individual policyholder as is paid back or  
115 credited to or treated as an abatement of premiums of such  
116 policyholder within the taxable year.

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

121 (j) Amounts paid by the United States to a person as  
122 added compensation for hazardous duty pay as a member of the Armed  
123 Forces of the United States in a combat zone designated by  
124 Executive Order of the President of the United States.

125 (k) Amounts received as retirement allowances,  
126 pensions, annuities or optional retirement allowances paid under  
127 the federal Social Security Act, the Railroad Retirement Act, the

128 Federal Civil Service Retirement Act, or any other retirement  
129 system of the United States government, retirement allowances paid  
130 under the Mississippi Public Employees' Retirement System,  
131 Mississippi Highway Safety Patrol Retirement System or any other  
132 retirement system of the State of Mississippi or any political  
133 subdivision thereof. The exemption allowed under this paragraph  
134 (k) shall be available to the spouse or other beneficiary at the  
135 death of the primary retiree.

136 (l) Amounts received as retirement allowances,  
137 pensions, annuities or optional retirement allowances paid by any  
138 public or governmental retirement system not designated in  
139 subsection (k) or any private retirement system or plan of which  
140 the recipient was a member at any time during the period of his  
141 employment. Amounts received as a distribution under a Roth  
142 individual retirement account shall be treated in the same manner  
143 as provided under the Internal Revenue Code of 1986, as amended.  
144 The exemption allowed under this paragraph (l) shall be available  
145 to the spouse or other beneficiary at the death of the primary  
146 retiree.

147 (m) Compensation not to exceed the aggregate sum of  
148 Five Thousand Dollars (\$5,000.00) for any taxable year received by  
149 a member of the National Guard or Reserve Forces of the United  
150 States as payment for inactive duty training, active duty training  
151 and state active duty.

152 (n) Compensation received for active service as a  
153 member below the grade of commissioned officer and so much of the  
154 compensation as does not exceed the aggregate sum of Five Hundred  
155 Dollars (\$500.00) per month received for active service as a  
156 commissioned officer in the Armed Forces of the United States for  
157 any month during any part of which such members of the Armed  
158 Forces (i) served in a combat zone as designated by Executive  
159 Order of the President of the United States; or (ii) was  
160 hospitalized as a result of wounds, disease or injury incurred

161 while serving in such combat zone.

162 (o) The proceeds received from federal and state  
163 forestry incentives programs.

164 (p) The amount representing the difference between the  
165 increase of gross income derived from sales for export outside the  
166 United States as compared to the preceding tax year wherein gross  
167 income from export sales was highest, and the net increase in  
168 expenses attributable to such increased exports. In the absence  
169 of direct accounting the ratio of net profits to total sales may  
170 be applied to the increase in export sales. This item (p) shall  
171 only apply to businesses located in this state engaging in the  
172 international export of Mississippi goods and services. Such  
173 goods or services shall have at least fifty percent (50%) of value  
174 added at a location in Mississippi.

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

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

185 (s) Amounts paid by the Mississippi Soil and Water  
186 Conservation Commission from the Mississippi Soil and Water  
187 Cost-Share Program for the installation of water quality best  
188 management practices.

189 (t) Dividends received by a holding corporation, as  
190 defined in Section 27-13-1, from a subsidiary corporation, as  
191 defined in Section 27-13-1.

192 (u) Compensation received by a nonresident for active  
193 federal service as a member of the Armed Forces of the United

194 States in an active duty status, while such person is stationed in  
195 the State of Mississippi pursuant to military orders, shall be  
196 excluded from gross income in the same amount as provided in  
197 paragraph (m) of this subsection (4) for compensation received by  
198 members of the National Guard or Reserve Forces of the United  
199 States.

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

201 (a) Members of the Armed Forces. Gross income does not  
202 include compensation received for active service as a member of  
203 the Armed Forces of the United States for any month during any  
204 part of which such member is in a missing status, as defined in  
205 paragraph (d) of this subsection, during the Vietnam Conflict as a  
206 result of such conflict.

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

211 (c) Period of conflict. For the purpose of this  
212 subsection, the Vietnam Conflict began February 28, 1961, and ends  
213 on the date designated by the President by Executive Order as the  
214 date of the termination of combatant activities in Vietnam. For  
215 the purpose of this subsection, an individual is in a missing  
216 status as a result of the Vietnam Conflict if immediately before  
217 such status began he was performing service in Vietnam or was  
218 performing service in Southeast Asia in direct support of military  
219 operations in Vietnam. "Southeast Asia" as used in this paragraph  
220 is defined to include Cambodia, Laos, Thailand and waters adjacent  
221 thereto.

222 (d) "Missing status" means the status of an employee or  
223 member of the Armed Forces who is in active service and is  
224 officially carried or determined to be absent in a status of (i)  
225 missing; (ii) missing in action; (iii) interned in a foreign  
226 country; (iv) captured, beleaguered or besieged by a hostile

227 force; or (v) detained in a foreign country against his will; but  
228 does not include the status of an employee or member of the Armed  
229 Forces for a period during which he is officially determined to be  
230 absent from his post of duty without authority.

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

234 (f) "Employee" means one who is a citizen or national  
235 of the United States or an alien admitted to the United States for  
236 permanent residence and is a resident of the State of Mississippi  
237 and is employed in or under a federal executive agency or  
238 department of the Armed Forces.

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

243 (h) If refund or credit of any overpayment of tax for  
244 any taxable year resulting from the application of subsection (5)  
245 of this section is prevented by the operation of any law or rule  
246 of law, such refund or credit of such overpayment of tax may,  
247 nevertheless, be made or allowed if claim therefor is filed with  
248 the State Tax Commission within three (3) years after the date of  
249 the enactment of this subsection.

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

252 (6) A shareholder of an S corporation, as defined in Section  
253 27-8-3(1)(g), shall take into account the income, loss, deduction  
254 or credit of the S corporation only to the extent provided in  
255 Section 27-8-7(2).

256 SECTION 2. Nothing in this act shall affect or defeat any  
257 claim, assessment, appeal, suit, right or cause of action for  
258 taxes due or accrued under the income tax laws before the date on  
259 which this act becomes effective, whether such claims,



260 assessments, appeals, suits or actions have been begun before the  
261 date on which this act becomes effective or are begun thereafter;  
262 and the provisions of the income tax laws are expressly continued  
263 in full force, effect and operation for the purpose of the  
264 assessment, collection and enrollment of liens for any taxes due  
265 or accrued and the execution of any warrant under such laws before  
266 the date on which this act becomes effective, and for the  
267 imposition of any penalties, forfeitures or claims for failure to  
268 comply with such laws.

269 SECTION 3. This act shall take effect and be in force from  
270 and after January 1, 2000.