

By: Representative Fleming

To: Ways and Means

## HOUSE BILL NO. 699

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO  
2 EXCLUDE OVERTIME COMPENSATION FROM THE DEFINITION OF "GROSS  
3 INCOME" FOR PURPOSES OF THE STATE INCOME TAX LAW; AND FOR RELATED  
4 PURPOSES.

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

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

8 [ \* \* \* Through June 30, 2003, this section shall read as  
9 follows:]

10 27-7-15. (1) For the purposes of this article, except as  
11 otherwise provided, the term "gross income" means and includes the  
12 income of a taxpayer derived from salaries, wages, fees or  
13 compensation for service, of whatever kind and in whatever form  
14 paid, including income from governmental agencies and subdivisions  
15 thereof; or from professions, vocations, trades, businesses,  
16 commerce or sales, or renting or dealing in property, or  
17 reacquired property; also from annuities, interest, rents,  
18 dividends, securities, insurance premiums, reinsurance premiums,  
19 considerations for supplemental insurance contracts, or the  
20 transaction of any business carried on for gain or profit, or  
21 gains, or profits, and income derived from any source whatever and  
22 in whatever form paid. The amount of all such items of income  
23 shall be included in the gross income for the taxable year in  
24 which received by the taxpayer. The amount by which an eligible  
25 employee's salary is reduced pursuant to a salary reduction  
26 agreement authorized under Section 25-17-5 shall be excluded from  
27 the term "gross income" within the meaning of this article.



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

31           (a) Dealers in property. Federal rules, regulations  
32 and revenue procedures shall be followed with respect to  
33 installment sales unless a transaction results in the shifting of  
34 income from inside the state to outside the state.

35           (b) Casual sales of property.

36           (i) Prior to January 1, 2001, federal rules,  
37 regulations and revenue procedures shall be followed with respect  
38 to installment sales except they shall be applied and administered  
39 as if House Resolution No. 3594, the Installment Tax Correction  
40 Act of 2000 of the 106th Congress had not been enacted. This  
41 provision will generally affect taxpayers, reporting on the  
42 accrual method of accounting, entering into installment note  
43 agreements on or after December 17, 1999. Any gain or profit  
44 resulting from the casual sale of property will be recognized in  
45 the year of sale.

46           (ii) From and after January 1, 2001, federal  
47 rules, regulations and revenue procedures shall be followed with  
48 respect to installment sales except as provided in this  
49 subparagraph (ii). Gain or profit from the casual sale of  
50 property shall be recognized in the year of sale. When a taxpayer  
51 recognizes gain on the casual sale of property in which the gain  
52 is deferred for federal income tax purposes, a taxpayer may elect  
53 to defer the payment of tax resulting from the gain as allowed and  
54 to the extent provided under regulations prescribed by the  
55 commissioner. If the payment of the tax is made on a deferred  
56 basis, the tax shall be computed based on the applicable rate for  
57 the income reported in the year the payment is made. Except as  
58 otherwise provided in subparagraph (iii) of this paragraph (b),  
59 deferring the payment of the tax shall not affect the liability  
60 for the tax. If at any time the installment note is sold,



61 contributed, transferred or disposed of in any manner and for any  
62 purpose by the original note holder, or the original note holder  
63 is merged, liquidated, dissolved or withdrawn from this state,  
64 then all deferred tax payments under this section shall  
65 immediately become due and payable.

66 (iii) If the selling price of the property is  
67 reduced by any alteration in the terms of an installment note,  
68 including default by the purchaser, the gain to be recognized is  
69 recomputed based on the adjusted selling price in the same manner  
70 as for federal income tax purposes. The tax on this amount, less  
71 the previously paid tax on the recognized gain, is payable over  
72 the period of the remaining installments. If the tax on the  
73 previously recognized gain has been paid in full to this state,  
74 the return on which the payment was made may be amended for this  
75 purpose only. The statute of limitations in Section 27-7-49 shall  
76 not bar an amended return for this purpose.

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

80 (d) Affiliated companies or persons. As regards sales,  
81 exchanges or payments for services from one to another of  
82 affiliated companies or persons or under other circumstances where  
83 the relation between the buyer and seller is such that gross  
84 proceeds from the sale or the value of the exchange or the payment  
85 for services are not indicative of the true value of the subject  
86 matter of the sale, exchange or payment for services, the  
87 commissioner shall prescribe uniform and equitable rules for  
88 determining the true value of the gross income, gross sales,  
89 exchanges or payment for services, or require consolidated returns  
90 of affiliates.

91 (e) Alimony and separate maintenance payments. The  
92 federal rules, regulations and revenue procedures in determining



the deductibility and taxability of alimony payments shall be followed in this state.

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

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

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

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

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

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

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

(e) The amounts received through accident or health insurance as compensation for personal injuries or sickness, plus the amount of any damages received for such injuries or such sickness or injuries, or through the War Risk Insurance Act, or



any law for the benefit or relief of injured or disabled members of the military or naval forces of the United States.

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

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

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

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

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

(k) Amounts received as retirement allowances, pensions, annuities or optional retirement allowances paid under the federal Social Security Act, the Railroad Retirement Act, the Federal Civil Service Retirement Act, or any other retirement



system of the United States government, retirement allowances paid under the Mississippi Public Employees' Retirement System, Mississippi Highway Safety Patrol Retirement System or any other retirement system of the State of Mississippi or any political subdivision thereof. The exemption allowed under this paragraph (k) shall be available to the spouse or other beneficiary at the death of the primary retiree.

(l) Amounts received as retirement allowances, pensions, annuities or optional retirement allowances paid by any public or governmental retirement system not designated in paragraph (k) or any private retirement system or plan of which the recipient was a member at any time during the period of his employment. Amounts received as a distribution under a Roth Individual Retirement Account shall be treated in the same manner as provided under the Internal Revenue Code of 1986, as amended. The exemption allowed under this paragraph (l) shall be available to the spouse or other beneficiary at the death of the primary retiree.

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

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



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

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

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

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

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

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

(u) Interest, dividends, gains or income of any kind on any account in the Mississippi Affordable College Savings Trust Fund, as established in Sections 37-155-101 through 37-155-125, to



the extent that such amounts remain on deposit in the MACS Trust Fund or are withdrawn pursuant to a qualified withdrawal, as defined in Section 37-155-105.

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

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

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

(y) Amounts received as overtime compensation required by the Fair Labor Standards Act of 1938 (29 USCS Section 201 et seq.), as amended.

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

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

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

(c) Period of conflict. For the purpose of this subsection, the Vietnam Conflict began February 28, 1961, and ends on the date designated by the President by Executive Order as the





date of the termination of combatant activities in Vietnam. For the purpose of this subsection, an individual is in a missing status as a result of the Vietnam Conflict if immediately before such status began he was performing service in Vietnam or was performing service in Southeast Asia in direct support of military operations in Vietnam. "Southeast Asia" as used in this paragraph is defined to include Cambodia, Laos, Thailand and waters adjacent thereto.

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

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

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

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

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



nevertheless, be made or allowed if claim therefor is filed with the State Tax Commission within three (3) years after the date of the enactment of this subsection.

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

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

**[From and after July 1, 2003, this section shall read as follows:]**

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

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



323           (a) Dealers in property. Federal rules, regulations  
324 and revenue procedures shall be followed with respect to  
325 installment sales.

326           (b) Casual sales of property. Federal rules,  
327 regulations and revenue procedures shall be followed with respect  
328 to installment sales.

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

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

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

341           (d) Affiliated companies or persons. As regards sales,  
342 exchanges or payments for services from one to another of  
343 affiliated companies or persons or under other circumstances where  
344 the relation between the buyer and seller is such that gross  
345 proceeds from the sale or the value of the exchange or the payment  
346 for services are not indicative of the true value of the subject  
347 matter of the sale, exchange or payment for services, the  
348 commissioner shall prescribe uniform and equitable rules for  
349 determining the true value of the gross income, gross sales,  
350 exchanges or payment for services, or require consolidated returns  
351 of affiliates.

352           (e) Alimony and separate maintenance payments. The  
353 federal rules, regulations and revenue procedures in determining  
354 the deductibility and taxability of alimony payments shall be  
355 followed in this state.



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

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

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

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

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

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

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

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



389           (f) Income received by any religious denomination or by  
390 any institution or trust for moral or mental improvements,  
391 religious, Bible, tract, charitable, benevolent, fraternal,  
392 missionary, hospital, infirmary, educational, scientific,  
393 literary, library, patriotic, historical or cemetery purposes or  
394 for two (2) or more of such purposes, if such income be used  
395 exclusively for carrying out one or more of such purposes.

396           (g) Income received by a domestic corporation which is  
397 "taxable in another state" as this term is defined in this  
398 article, derived from business activity conducted outside this  
399 state. Domestic corporations taxable both within and without the  
400 state shall determine Mississippi income on the same basis as  
401 provided for foreign corporations under the provisions of this  
402 article.

403           (h) In case of insurance companies, there shall be  
404 excluded from gross income such portion of actual premiums  
405 received from an individual policyholder as is paid back or  
406 credited to or treated as an abatement of premiums of such  
407 policyholder within the taxable year.

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

412           (j) Amounts paid by the United States to a person as  
413 added compensation for hazardous duty pay as a member of the Armed  
414 Forces of the United States in a combat zone designated by  
415 Executive Order of the President of the United States.

416           (k) Amounts received as retirement allowances,  
417 pensions, annuities or optional retirement allowances paid under  
418 the federal Social Security Act, the Railroad Retirement Act, the  
419 Federal Civil Service Retirement Act, or any other retirement  
420 system of the United States government, retirement allowances paid  
421 under the Mississippi Public Employees' Retirement System,



Mississippi Highway Safety Patrol Retirement System or any other retirement system of the State of Mississippi or any political subdivision thereof. The exemption allowed under this paragraph (k) shall be available to the spouse or other beneficiary at the death of the primary retiree.

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

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

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

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



455           (p) The amount representing the difference between the  
456 increase of gross income derived from sales for export outside the  
457 United States as compared to the preceding tax year wherein gross  
458 income from export sales was highest, and the net increase in  
459 expenses attributable to such increased exports. In the absence  
460 of direct accounting the ratio of net profits to total sales may  
461 be applied to the increase in export sales. This paragraph (p)  
462 shall only apply to businesses located in this state engaging in  
463 the international export of Mississippi goods and services. Such  
464 goods or services shall have at least fifty percent (50%) of value  
465 added at a location in Mississippi.

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

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

476           (s) Amounts paid by the Mississippi Soil and Water  
477 Conservation Commission from the Mississippi Soil and Water  
478 Cost-Share Program for the installation of water quality best  
479 management practices.

480           (t) Dividends received by a holding corporation, as  
481 defined in Section 27-13-1, from a subsidiary corporation, as  
482 defined in Section 27-13-1.

483           (u) Interest, dividends, gains or income of any kind on  
484 any account in the Mississippi Affordable College Savings Trust  
485 Fund, as established in Sections 37-155-101 through 37-155-125, to  
486 the extent that such amounts remain on deposit in the MACS Trust



Fund or are withdrawn pursuant to a qualified withdrawal, as defined in Section 37-155-105.

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

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

(x) Amounts received as overtime compensation required by the Fair Labor Standards Act of 1938 (29 USCS Section 201 et seq.), as amended.

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

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

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

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





520           (d) "Missing status" means the status of an employee or  
521 member of the Armed Forces who is in active service and is  
522 officially carried or determined to be absent in a status of (i)  
523 missing; (ii) missing in action; (iii) interned in a foreign  
524 country; (iv) captured, beleaguered or besieged by a hostile  
525 force; or (v) detained in a foreign country against his will; but  
526 does not include the status of an employee or member of the Armed  
527 Forces for a period during which he is officially determined to be  
528 absent from his post of duty without authority.

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

532           (f) "Employee" means one who is a citizen or national  
533 of the United States or an alien admitted to the United States for  
534 permanent residence and is a resident of the State of Mississippi  
535 and is employed in or under a federal executive agency or  
536 department of the Armed Forces.

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

541           (h) If refund or credit of any overpayment of tax for  
542 any taxable year resulting from the application of subsection (5)  
543 of this section is prevented by the operation of any law or rule  
544 of law, such refund or credit of such overpayment of tax may,  
545 nevertheless, be made or allowed if claim therefor is filed with  
546 the State Tax Commission within three (3) years after the date of  
547 the enactment of this subsection.

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

550           (6) A shareholder of an S corporation, as defined in Section  
551 27-8-3(1)(g), shall take into account the income, loss, deduction



552 or credit of the S corporation only to the extent provided in  
553 Section 27-8-7(2).

554       **SECTION 2.** Nothing in this act shall affect or defeat any  
555 claim, assessment, appeal, suit, right or cause of action for  
556 taxes due or accrued under the income tax laws before the date on  
557 which this act becomes effective, whether such claims,  
558 assessments, appeals, suits or actions have been begun before the  
559 date on which this act becomes effective or are begun thereafter;  
560 and the provisions of the income tax laws are expressly continued  
561 in full force, effect and operation for the purpose of the  
562 assessment, collection and enrollment of liens for any taxes due  
563 or accrued and the execution of any warrant under such laws before  
564 the date on which this act becomes effective, and for the  
565 imposition of any penalties, forfeitures or claims for failure to  
566 comply with such laws.

567       **SECTION 3.** This act shall take effect and be in force from  
568 and after January 1, 2002.

