

By: Senator(s) Ross, Dearing, White (29th),  
Carlton, Smith, Michel, Stogner, Nunnelee,  
Chaney

To: Finance

SENATE BILL NO. 2093

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO  
2 INCREASE THE AMOUNT OF COMPENSATION RECEIVED BY A MEMBER OF THE  
3 NATIONAL GUARD OR RESERVE FORCES OF THE UNITED STATES AS PAYMENT  
4 FOR INACTIVE DUTY TRAINING, ACTIVE DUTY TRAINING AND STATE ACTIVE  
5 DUTY, THAT IS EXEMPT FROM TAXATION UNDER THE STATE INCOME TAX LAW  
6 FROM \$5,000.00 TO \$15,000.00.

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

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

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

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



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

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

37           (b) Casual sales of property.

38           (i) Prior to January 1, 2001, federal rules,  
39 regulations and revenue procedures shall be followed with respect  
40 to installment sales except they shall be applied and administered  
41 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the  
42 106th Congress had not been enacted. This provision will  
43 generally affect taxpayers, reporting on the accrual method of  
44 accounting, entering into installment note agreements on or after  
45 December 17, 1999. Any gain or profit resulting from the casual  
46 sale of property will be recognized in the year of sale.

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



63 purpose by the original note holder, or the original note holder  
64 is merged, liquidated, dissolved or withdrawn from this state,  
65 then all deferred tax payments under this section shall  
66 immediately become due and payable.

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

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

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

92 (e) Alimony and separate maintenance payments. The  
93 federal rules, regulations and revenue procedures in determining  
94 the deductibility and taxability of alimony payments shall be  
95 followed in this state.



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

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

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

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

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

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

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

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



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

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

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

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

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

156           (k) Amounts received as retirement allowances,  
157 pensions, annuities or optional retirement allowances paid under  
158 the federal Social Security Act, the Railroad Retirement Act, the  
159 Federal Civil Service Retirement Act, or any other retirement  
160 system of the United States government, retirement allowances paid  
161 under the Mississippi Public Employees' Retirement System,



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

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

178 (m) Compensation not to exceed the aggregate sum of  
179 Fifteen Thousand Dollars (\$15,000.00) for any taxable year  
180 received by a member of the National Guard or Reserve Forces of  
181 the United States as payment for inactive duty training, active  
182 duty training and state active duty.

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

253 (c) Period of conflict. For the purpose of this  
254 subsection, the Vietnam Conflict began February 28, 1961, and ends  
255 on the date designated by the President by Executive Order as the  
256 date of the termination of combatant activities in Vietnam. For  
257 the purpose of this subsection, an individual is in a missing  
258 status as a result of the Vietnam Conflict if immediately before  
259 such status began he was performing service in Vietnam or was





260 performing service in Southeast Asia in direct support of military  
261 operations in Vietnam. "Southeast Asia" as used in this paragraph  
262 is defined to include Cambodia, Laos, Thailand and waters adjacent  
263 thereto.

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

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

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

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

285 (h) If refund or credit of any overpayment of tax for  
286 any taxable year resulting from the application of subsection (5)  
287 of this section is prevented by the operation of any law or rule  
288 of law, such refund or credit of such overpayment of tax may,  
289 nevertheless, be made or allowed if claim therefor is filed with  
290 the State Tax Commission within three (3) years after the date of  
291 the enactment of this subsection.



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

294 (6) A shareholder of an S corporation, as defined in Section  
295 27-8-3(1)(g), shall take into account the income, loss, deduction  
296 or credit of the S corporation only to the extent provided in  
297 Section 27-8-7(2).

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

300 27-7-15. (1) For the purposes of this article, except as  
301 otherwise provided, the term "gross income" means and includes the  
302 income of a taxpayer derived from salaries, wages, fees or  
303 compensation for service, of whatever kind and in whatever form  
304 paid, including income from governmental agencies and subdivisions  
305 thereof; or from professions, vocations, trades, businesses,  
306 commerce or sales, or renting or dealing in property, or  
307 reacquired property; also from annuities, interest, rents,  
308 dividends, securities, insurance premiums, reinsurance premiums,  
309 considerations for supplemental insurance contracts, or the  
310 transaction of any business carried on for gain or profit, or  
311 gains, or profits, and income derived from any source whatever and  
312 in whatever form paid. The amount of all such items of income  
313 shall be included in the gross income for the taxable year in  
314 which received by the taxpayer. The amount by which an eligible  
315 employee's salary is reduced pursuant to a salary reduction  
316 agreement authorized under Section 25-17-5 shall be excluded from  
317 the term "gross income" within the meaning of this article.

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

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



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

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

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

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

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

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

354           (f) Reimbursement for expenses of moving. There shall  
355 be included in gross income (as compensation for services) any  
356 amount received or accrued, directly or indirectly, by an



357 individual as a payment for or reimbursement of expenses of moving  
358 from one residence to another residence which is attributable to  
359 employment or self-employment.

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

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

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

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

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

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

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

387 (f) Income received by any religious denomination or by  
388 any institution or trust for moral or mental improvements,  
389 religious, Bible, tract, charitable, benevolent, fraternal,



390 missionary, hospital, infirmary, educational, scientific,  
391 literary, library, patriotic, historical or cemetery purposes or  
392 for two (2) or more of such purposes, if such income be used  
393 exclusively for carrying out one or more of such purposes.

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

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

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

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

414 (k) Amounts received as retirement allowances,  
415 pensions, annuities or optional retirement allowances paid under  
416 the federal Social Security Act, the Railroad Retirement Act, the  
417 Federal Civil Service Retirement Act, or any other retirement  
418 system of the United States government, retirement allowances paid  
419 under the Mississippi Public Employees' Retirement System,  
420 Mississippi Highway Safety Patrol Retirement System or any other  
421 retirement system of the State of Mississippi or any political  
422 subdivision thereof. The exemption allowed under this paragraph



423 (k) shall be available to the spouse or other beneficiary at the  
424 death of the primary retiree.

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

436 (m) Compensation not to exceed the aggregate sum of  
437 Fifteen Thousand Dollars (\$15,000.00) for any taxable year  
438 received by a member of the National Guard or Reserve Forces of  
439 the United States as payment for inactive duty training, active  
440 duty training and state active duty.

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

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

453 (p) The amount representing the difference between the  
454 increase of gross income derived from sales for export outside the  
455 United States as compared to the preceding tax year wherein gross



456 income from export sales was highest, and the net increase in  
457 expenses attributable to such increased exports. In the absence  
458 of direct accounting the ratio of net profits to total sales may  
459 be applied to the increase in export sales. This paragraph (p)  
460 shall only apply to businesses located in this state engaging in  
461 the international export of Mississippi goods and services. Such  
462 goods or services shall have at least fifty percent (50%) of value  
463 added at a location in Mississippi.

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

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

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

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

481 (u) Interest, dividends, gains or income of any kind on  
482 any account in the Mississippi Affordable College Savings Trust  
483 Fund, as established in Sections 37-155-101 through 37-155-125, to  
484 the extent that such amounts remain on deposit in the MACS Trust  
485 Fund or are withdrawn pursuant to a qualified withdrawal, as  
486 defined in Section 37-155-105.



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

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

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

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

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

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

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





520 force; or (v) detained in a foreign country against his will; but  
521 does not include the status of an employee or member of the Armed  
522 Forces 0for a period during which he is officially determined to  
523 be absent from his post of duty without authority.

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

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

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

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

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

545 (6) A shareholder of an S corporation, as defined in Section  
546 27-8-3(1)(g), shall take into account the income, loss, deduction  
547 or credit of the S corporation only to the extent provided in  
548 Section 27-8-7(2).

549 **SECTION 2.** This act shall take effect and be in force from  
550 and after January 1, 2002.

