

By: Representative Fleming

To: Ways and Means

HOUSE BILL NO. 184

1 AN ACT TO AMEND SECTION 27-7-17, MISSISSIPPI CODE OF 1972; TO  
2 AUTHORIZE AN INCOME TAX DEDUCTION FOR TAXPAYERS WHO INCUR EXPENSES  
3 FOR MEDICAL CARE OR PRESCRIBED DRUGS, OR BOTH, FOR THE TAXPAYER,  
4 THE TAXPAYER'S SPOUSE OR DEPENDENTS, REGARDLESS OF THE AMOUNT OF  
5 SUCH EXPENSES INCURRED DURING A TAXABLE YEAR; AND FOR RELATED  
6 PURPOSES.

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

8 **SECTION 1.** Section 27-7-17, Mississippi Code of 1972, is  
9 amended as follows:

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

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

13 (1) **Business deductions.**

14 (a) **Business expenses.** All the ordinary and necessary  
15 expenses paid or incurred during the taxable year in carrying on  
16 any trade or business, including a reasonable allowance for  
17 salaries or other compensation for personal services actually  
18 rendered; nonreimbursable traveling expenses incident to current  
19 employment, including a reasonable amount expended for meals and  
20 lodging while away from home in the pursuit of a trade or  
21 business; and rentals or other payments required to be made as a  
22 condition of the continued use or possession, for purposes of the  
23 trade or business of property to which the taxpayer has not taken  
24 or is not taking title or in which he had no equity. Expense  
25 incurred in connection with earning and distributing nontaxable  
26 income is not an allowable deduction. Limitations on  
27 entertainment expenses shall conform to the provisions of the  
28 Internal Revenue Code of 1986.



29           (b) **Interest.** All interest paid or accrued during the  
30 taxable year on business indebtedness, except interest upon the  
31 indebtedness for the purchase of tax-free bonds, or any stocks,  
32 the dividends from which are nontaxable under the provisions of  
33 this article; provided, however, in the case of securities  
34 dealers, interest payments or accruals on loans, the proceeds of  
35 which are used to purchase tax-exempt securities, shall be  
36 deductible if income from otherwise tax-free securities is  
37 reported as income. Investment interest expense shall be limited  
38 to investment income. Interest expense incurred for the purchase  
39 of treasury stock, to pay dividends, or incurred as a result of an  
40 undercapitalized affiliated corporation may not be deducted unless  
41 an ordinary and necessary business purpose can be established to  
42 the satisfaction of the commissioner. For the purposes of this  
43 paragraph, the phrase "interest upon the indebtedness for the  
44 purchase of tax-free bonds" applies only to the indebtedness  
45 incurred for the purpose of directly purchasing tax-free bonds and  
46 does not apply to any other indebtedness incurred in the regular  
47 course of the taxpayer's business. Any corporation, association,  
48 organization or other entity taxable under Section 27-7-23(c)  
49 shall allocate interest expense as provided in Section  
50 27-7-23(c)(3)(I).

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

60           (d) **Business losses.**



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

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

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

73 (f) **Depreciation.** A reasonable allowance for  
74 exhaustion, wear and tear of property used in the trade or  
75 business, or rental property, and depreciation upon buildings  
76 based upon their reasonable value as of March 16, 1912, if  
77 acquired prior thereto, and upon cost if acquired subsequent to  
78 that date.

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

86 (h) **Contributions or gifts.** Except as otherwise  
87 provided in subsection (3)(a) of this section for individuals,  
88 contributions or gifts made by corporations within the taxable  
89 year to corporations, organizations, associations or institutions,  
90 including Community Chest funds, foundations and trusts created  
91 solely and exclusively for religious, charitable, scientific or  
92 educational purposes, or for the prevention of cruelty to children  
93 or animals, no part of the net earnings of which inure to the



94 benefit of any private stockholder or individual. This deduction  
95 shall be allowed in an amount not to exceed twenty percent (20%)  
96 of the net income. Such contributions or gifts shall be allowable  
97 as deductions only if verified under rules and regulations  
98 prescribed by the commissioner, with the approval of the Governor.  
99 Contributions made in any form other than cash shall be allowed as  
100 a deduction, subject to the limitations herein provided, in an  
101 amount equal to the actual market value of the contributions at  
102 the time the contribution is actually made and consummated.

103           (i) **Reserve funds - insurance companies.** In the case  
104 of insurance companies the net additions required by law to be  
105 made within the taxable year to reserve funds when such reserve  
106 funds are maintained for the purpose of liquidating policies at  
107 maturity.

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

111           (k) **Contributions to employee pension plans.**  
112 Contributions made by an employer to a plan or a trust forming  
113 part of a pension plan, stock bonus plan, disability or  
114 death-benefit plan, or profit-sharing plan of such employer for  
115 the exclusive benefit of some or all of his, their, or its  
116 employees, or their beneficiaries, shall be deductible from his,  
117 their, or its income only to the extent that, and for the taxable  
118 year in which, the contribution is deductible for federal income  
119 tax purposes under the Internal Revenue Code of 1986 and any other  
120 provisions of similar purport in the Internal Revenue Laws of the  
121 United States, and the rules, regulations, rulings and  
122 determinations promulgated thereunder, provided that:

123                   (i) The plan or trust be irrevocable.

124                   (ii) The plan or trust constitute a part of a  
125 pension plan, stock bonus plan, disability or death-benefit plan,  
126 or profit-sharing plan for the exclusive benefit of some or all of



127 the employer's employees and/or officers, or their beneficiaries,  
128 for the purpose of distributing the corpus and income of the plan  
129 or trust to such employees and/or officers, or their  
130 beneficiaries.

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

134 Contributions to all plans or to all trusts of real or  
135 personal property (or real and personal property combined) or to  
136 insured plans created under a retirement plan for which provision  
137 has been made under the laws of the United States of America,  
138 making such contributions deductible from income for federal  
139 income tax purposes, shall be deductible only to the same extent  
140 under the Income Tax Laws of the State of Mississippi.

141 (1) **Net operating loss carrybacks and carryovers.** A  
142 net operating loss for any taxable year ending after December 31,  
143 1993, and taxable years thereafter, shall be a net operating loss  
144 carryback to each of the three (3) taxable years preceding the  
145 taxable year of the loss. If the net operating loss for any  
146 taxable year is not exhausted by carrybacks to the three (3)  
147 taxable years preceding the taxable year of the loss, then there  
148 shall be a net operating loss carryover to each of the fifteen  
149 (15) taxable years following the taxable year of the loss  
150 beginning with any taxable year after December 31, 1991.

151 For any taxable year ending after December 31, 1997, the  
152 period for net operating loss carrybacks and net operating loss  
153 carryovers shall be the same as those established by the Internal  
154 Revenue Code and the rules, regulations, rulings and  
155 determinations promulgated thereunder as in effect at the taxable  
156 year end or on December 31, 2000, whichever is earlier.

157 A net operating loss for any taxable year ending after  
158 December 31, 2001, and taxable years thereafter, shall be a net  
159 operating loss carryback to each of the two (2) taxable years



160 preceding the taxable year of the loss. If the net operating loss  
161 for any taxable year is not exhausted by carrybacks to the two (2)  
162 taxable years preceding the taxable year of the loss, then there  
163 shall be a net operating loss carryover to each of the twenty (20)  
164 taxable years following the taxable year of the loss beginning  
165 with any taxable year after the taxable year of the loss.

166 The term "net operating loss," for the purposes of this  
167 paragraph, shall be the excess of the deductions allowed over the  
168 gross income; provided, however, the following deductions shall  
169 not be allowed in computing same:

170 (i) No net operating loss deduction shall be  
171 allowed.

172 (ii) No personal exemption deduction shall be  
173 allowed.

174 (iii) Allowable deductions which are not  
175 attributable to taxpayer's trade or business shall be allowed only  
176 to the extent of the amount of gross income not derived from such  
177 trade or business.

178 Any taxpayer entitled to a carryback period as provided by  
179 this paragraph may elect to relinquish the entire carryback period  
180 with respect to a net operating loss for any taxable year ending  
181 after December 31, 1991. The election shall be made in the manner  
182 prescribed by the State Tax Commission and shall be made by the  
183 due date, including extensions of time, for filing the taxpayer's  
184 return for the taxable year of the net operating loss for which  
185 the election is to be in effect. The election, once made for any  
186 taxable year, shall be irrevocable for that taxable year.

187 (m) **Amortization of pollution or environmental control**  
188 **facilities.** Allowance of deduction. Every taxpayer, at his  
189 election, shall be entitled to a deduction for pollution or  
190 environmental control facilities to the same extent as that  
191 allowed under the Internal Revenue Code and the rules,  
192 regulations, rulings and determinations promulgated thereunder.



193                   (n) **Dividend distributions - real estate investment**  
194 **trusts.** "Real estate investment trust" (hereinafter referred to  
195 as REIT) shall have the meaning ascribed to such term in Section  
196 856 of the federal Internal Revenue Code of 1986, as amended. A  
197 REIT is allowed a dividend distributed deduction if the dividend  
198 distributions meet the requirements of Section 857 or are  
199 otherwise deductible under Section 858 or 860, federal Internal  
200 Revenue Code of 1986, as amended. In addition:

201                   (i) A dividend distributed deduction shall only be  
202 allowed for dividends paid by a publicly traded REIT. A qualified  
203 REIT subsidiary shall be allowed a dividend distributed deduction  
204 if its owner is a publicly traded REIT.

205                   (ii) Income generated from real estate contributed  
206 or sold to a REIT by a shareholder or related party shall not give  
207 rise to a dividend distributed deduction, unless the shareholder  
208 or related party would have received the dividend distributed  
209 deduction under this chapter.

210                   (iii) A holding corporation receiving a dividend  
211 from a REIT shall not be allowed the deduction in Section  
212 27-7-15(4)(t).

213                   (iv) Any REIT not allowed the dividend distributed  
214 deduction in the federal Internal Revenue Code of 1986, as  
215 amended, shall not be allowed a dividend distributed deduction  
216 under this chapter.

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

221                   (o) **Contributions to college savings trust fund**  
222 **accounts.** Contributions or payments to a Mississippi Affordable  
223 College Savings Program account are deductible as provided under  
224 Section 37-155-113. Payments made under a prepaid tuition  
225 contract entered into under the Mississippi Prepaid Affordable



226 College Tuition Program are deductible as provided under Section  
227 37-155-17.

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

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

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

232                           1. Expenses, losses and costs for, related  
233 to, or in connection directly or indirectly with the direct or  
234 indirect acquisition, use, maintenance or management, ownership,  
235 sale, exchange or any other disposition of intangible property to  
236 the extent such amounts are allowed as deductions or costs in  
237 determining taxable income under this chapter;

238                           2. Expenses or losses related to or incurred  
239 in connection directly or indirectly with factoring transactions  
240 or discounting transactions;

241                           3. Royalty, patent, technical and copyright  
242 fees;

243                           4. Licensing fees; and

244                           5. Other similar expenses and costs.

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

248                   (iii) "Interest expenses and cost" means amounts  
249 directly or indirectly allowed as deductions for purposes of  
250 determining taxable income under this chapter to the extent such  
251 interest expenses and costs are directly or indirectly for,  
252 related to, or in connection with the direct or indirect  
253 acquisition maintenance, management, ownership, sale, exchange or  
254 disposition of intangible property.

255                   (iv) "Related member" means an entity or person  
256 that, with respect to the taxpayer during all or any portion of  
257 the taxable year, is a related entity, a component member as  
258 defined in the Internal Revenue Code, or is an entity or a person





259 to or from whom there is attribution of stock ownership in  
260 accordance with Section 1563(e) of the Internal Revenue Code.

261 (v) "Related entity" means:

262 1. A stockholder who is an individual or a  
263 member of the stockholder's family, as defined in regulations  
264 prescribed by the commissioner, if the stockholder and the members  
265 of the stockholder's family own, directly, indirectly,  
266 beneficially or constructively, in the aggregate, at least fifty  
267 percent (50%) of the value of the taxpayer's outstanding stock;

268 2. A stockholder, or a stockholder's  
269 partnership, limited liability company, estate, trust or  
270 corporation, if the stockholder and the stockholder's  
271 partnerships, limited liability companies, estates, trusts and  
272 corporations own, directly, indirectly, beneficially or  
273 constructively, in the aggregate, at least fifty percent (50%) of  
274 the value of the taxpayer's outstanding stock;

275 3. A corporation, or a party related to the  
276 corporation in a manner that would require an attribution of stock  
277 from the corporation to the party or from the party to the  
278 corporation, if the taxpayer owns, directly, indirectly,  
279 beneficially or constructively, at least fifty percent (50%) of  
280 the value of the corporation's outstanding stock under regulation  
281 prescribed by the commissioner;

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

285 (b) In computing net income, a taxpayer shall add back  
286 otherwise deductible interest expenses and costs and intangible  
287 expenses and costs directly or indirectly paid, accrued to or  
288 incurred, in connection directly or indirectly with one or more  
289 direct or indirect transactions with one or more related members.

290 (c) The adjustments required by this subsection shall  
291 not apply to such portion of interest expenses and costs and



292 intangible expenses and costs that the taxpayer can establish  
293 meets one (1) of the following:

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

297 (ii) The transaction giving rise to the interest  
298 expenses and costs or intangible expenses and costs between the  
299 taxpayer and related member was done primarily for a valid  
300 business purpose other than the avoidance of taxes, and the  
301 related member is not primarily engaged in the acquisition, use,  
302 maintenance or management, ownership, sale, exchange or any other  
303 disposition of intangible property.

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

308 (e) The commissioner may prescribe such regulations as  
309 necessary or appropriate to carry out the purposes of this  
310 subsection, including, but not limited to, clarifying definitions  
311 of terms, rules of stock attribution, factoring and discount  
312 transactions.

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

314 (a) Except as otherwise provided in the subsection (3),  
315 the amount allowable for individual nonbusiness itemized  
316 deductions for federal income tax purposes where the individual is  
317 eligible to elect, for the taxable year, to itemize deductions on  
318 his federal return except the following:

319 (i) The deduction for state income taxes paid;

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

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



324 (iv) The deduction for taxes collected by gaming  
325 establishments pursuant to Section 27-7-903.

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

331 (i) Three Thousand Four Hundred Dollars  
332 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
333 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
334 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
335 in the case of married individuals filing a joint or combined  
336 return;

337 (ii) One Thousand Seven Hundred Dollars  
338 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
339 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
340 Three Hundred Dollars (\$2,300.00) for each calendar year  
341 thereafter in the case of married individuals filing separate  
342 returns;

343 (iii) Three Thousand Four Hundred Dollars  
344 (\$3,400.00) in the case of a head of family; or

345 (iv) Two Thousand Three Hundred Dollars  
346 (\$2,300.00) in the case of an individual who is not married.

347 In the case of a husband and wife living together, having  
348 separate incomes, and filing combined returns, the standard  
349 deduction authorized may be divided in any manner they choose. In  
350 the case of separate returns by a husband and wife, the standard  
351 deduction shall not be allowed to either if the taxable income of  
352 one of the spouses is determined without regard to the standard  
353 deduction.

354 (c) An individual eligible for the itemized deductions  
355 authorized in paragraph (a) of this subsection (3) or the standard  
356 deduction authorized in paragraph (b) of this subsection (3) may



357 claim a deduction for expenses incurred for medical care or  
358 prescribed drugs, or both, for the individual, the individual's  
359 spouse or dependents, regardless of the amount of such expenses  
360 incurred during the taxable year. An individual may not claim a  
361 deduction for expenses that are compensated for by insurance or  
362 otherwise. For the purposes of this paragraph (c), the terms  
363 "medical care" and "prescribed drugs" have the same definitions as  
364 those terms have in 26 USCS 213.

365       (d) A nonresident individual shall be allowed the same  
366 individual nonbusiness deductions as are authorized for resident  
367 individuals in \* \* \* this subsection (3); however, the nonresident  
368 individual is entitled only to that proportion of the individual  
369 nonbusiness deductions as his net income from sources within the  
370 State of Mississippi bears to his total or entire net income from  
371 all sources.

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

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

376       27-7-17. In computing taxable income, there shall be allowed  
377 as deductions:

378       (1) **Business deductions.**

379           (a) **Business expenses.** All the ordinary and necessary  
380 expenses paid or incurred during the taxable year in carrying on  
381 any trade or business, including a reasonable allowance for  
382 salaries or other compensation for personal services actually  
383 rendered; nonreimbursable traveling expenses incident to current  
384 employment, including a reasonable amount expended for meals and  
385 lodging while away from home in the pursuit of a trade or  
386 business; and rentals or other payments required to be made as a  
387 condition of the continued use or possession, for purposes of the  
388 trade or business of property to which the taxpayer has not taken  
389 or is not taking title or in which he had no equity. Expense



390 incurred in connection with earning and distributing nontaxable  
391 income is not an allowable deduction. Limitations on  
392 entertainment expenses shall conform to the provisions of the  
393 Internal Revenue Code of 1986.

394           (b) **Interest.** All interest paid or accrued during the  
395 taxable year on business indebtedness, except interest upon the  
396 indebtedness for the purchase of tax-free bonds, or any stocks,  
397 the dividends from which are nontaxable under the provisions of  
398 this article; provided, however, in the case of securities  
399 dealers, interest payments or accruals on loans, the proceeds of  
400 which are used to purchase tax-exempt securities, shall be  
401 deductible if income from otherwise tax-free securities is  
402 reported as income. Investment interest expense shall be limited  
403 to investment income. Interest expense incurred for the purchase  
404 of treasury stock, to pay dividends, or incurred as a result of an  
405 undercapitalized affiliated corporation may not be deducted unless  
406 an ordinary and necessary business purpose can be established to  
407 the satisfaction of the commissioner. For the purposes of this  
408 paragraph, the phrase "interest upon the indebtedness for the  
409 purchase of tax-free bonds" applies only to the indebtedness  
410 incurred for the purpose of directly purchasing tax-free bonds and  
411 does not apply to any other indebtedness incurred in the regular  
412 course of the taxpayer's business. Any corporation, association,  
413 organization or other entity taxable under Section 27-7-23(c)  
414 shall allocate interest expense as provided in Section  
415 27-7-23(c)(4)(H).

416           (c) **Taxes.** Taxes paid or accrued within the taxable  
417 year, except state and federal income taxes, excise taxes based on  
418 or measured by net income, estate and inheritance taxes, gift  
419 taxes, cigar and cigarette taxes, gasoline taxes, and sales and  
420 use taxes unless incurred as an item of expense in a trade or  
421 business or in the production of taxable income. In the case of  
422 an individual, taxes permitted as an itemized deduction under the



423 provisions of subsection (2)(a) of this section are to be claimed  
424 thereunder.

425 (d) **Business losses.**

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

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

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

438 (f) **Depreciation.** A reasonable allowance for  
439 exhaustion, wear and tear of property used in the trade or  
440 business, or rental property, and depreciation upon buildings  
441 based upon their reasonable value as of March 16, 1912, if  
442 acquired prior thereto, and upon cost if acquired subsequent to  
443 that date.

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

451 (h) **Contributions or gifts.** Except as otherwise  
452 provided in subsection (2)(a) of this section for individuals,  
453 contributions or gifts made by corporations within the taxable  
454 year to corporations, organizations, associations or institutions,  
455 including Community Chest funds, foundations and trusts created



456 solely and exclusively for religious, charitable, scientific or  
457 educational purposes, or for the prevention of cruelty to children  
458 or animals, no part of the net earnings of which inure to the  
459 benefit of any private stockholder or individual. This deduction  
460 shall be allowed in an amount not to exceed twenty percent (20%)  
461 of the net income. Such contributions or gifts shall be allowable  
462 as deductions only if verified under rules and regulations  
463 prescribed by the commissioner, with the approval of the Governor.  
464 Contributions made in any form other than cash shall be allowed as  
465 a deduction, subject to the limitations herein provided, in an  
466 amount equal to the actual market value of the contributions at  
467 the time the contribution is actually made and consummated.

468           (i) **Reserve funds - insurance companies.** In the case  
469 of insurance companies the net additions required by law to be  
470 made within the taxable year to reserve funds when such reserve  
471 funds are maintained for the purpose of liquidating policies at  
472 maturity.

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

476           (k) **Contributions to employee pension plans.**  
477 Contributions made by an employer to a plan or a trust forming  
478 part of a pension plan, stock bonus plan, disability or  
479 death-benefit plan, or profit-sharing plan of such employer for  
480 the exclusive benefit of some or all of his, their, or its  
481 employees, or their beneficiaries, shall be deductible from his,  
482 their, or its income only to the extent that, and for the taxable  
483 year in which, the contribution is deductible for federal income  
484 tax purposes under the Internal Revenue Code of 1986 and any other  
485 provisions of similar purport in the Internal Revenue Laws of the  
486 United States, and the rules, regulations, rulings and  
487 determinations promulgated thereunder, provided that:

488           (i) The plan or trust be irrevocable.



489                   (ii) The plan or trust constitute a part of a  
490 pension plan, stock bonus plan, disability or death-benefit plan,  
491 or profit-sharing plan for the exclusive benefit of some or all of  
492 the employer's employees and/or officers, or their beneficiaries,  
493 for the purpose of distributing the corpus and income of the plan  
494 or trust to such employees and/or officers, or their  
495 beneficiaries.

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

499           Contributions to all plans or to all trusts of real or  
500 personal property (or real and personal property combined) or to  
501 insured plans created under a retirement plan for which provision  
502 has been made under the laws of the United States of America,  
503 making such contributions deductible from income for federal  
504 income tax purposes, shall be deductible only to the same extent  
505 under the Income Tax Laws of the State of Mississippi.

506           (1) **Net operating loss carrybacks and carryovers.** A  
507 net operating loss for any taxable year ending after December 31,  
508 1993, and taxable years thereafter, shall be a net operating loss  
509 carryback to each of the three (3) taxable years preceding the  
510 taxable year of the loss. If the net operating loss for any  
511 taxable year is not exhausted by carrybacks to the three (3)  
512 taxable years preceding the taxable year of the loss, then there  
513 shall be a net operating loss carryover to each of the fifteen  
514 (15) taxable years following the taxable year of the loss  
515 beginning with any taxable year after December 31, 1991.

516           For any taxable year ending after December 31, 1997, the  
517 period for net operating loss carrybacks and net operating loss  
518 carryovers shall be the same as those established by the Internal  
519 Revenue Code and the rules, regulations, rulings and  
520 determinations promulgated thereunder as in effect at the taxable  
521 year end or on December 31, 2000, whichever is earlier.





522 A net operating loss for any taxable year ending after  
523 December 31, 2001, and taxable years thereafter, shall be a net  
524 operating loss carryback to each of the two (2) taxable years  
525 preceding the taxable year of the loss. If the net operating loss  
526 for any taxable year is not exhausted by carrybacks to the two (2)  
527 taxable years preceding the taxable year of the loss, then there  
528 shall be a net operating loss carryover to each of the twenty (20)  
529 taxable years following the taxable year of the loss beginning  
530 with any taxable year after the taxable year of the loss.

531 The term "net operating loss," for the purposes of this  
532 paragraph, shall be the excess of the deductions allowed over the  
533 gross income; provided, however, the following deductions shall  
534 not be allowed in computing same:

535 (i) No net operating loss deduction shall be  
536 allowed.

537 (ii) No personal exemption deduction shall be  
538 allowed.

539 (iii) Allowable deductions which are not  
540 attributable to taxpayer's trade or business shall be allowed only  
541 to the extent of the amount of gross income not derived from such  
542 trade or business.

543 Any taxpayer entitled to a carryback period as provided by  
544 this paragraph may elect to relinquish the entire carryback period  
545 with respect to a net operating loss for any taxable year ending  
546 after December 31, 1991. The election shall be made in the manner  
547 prescribed by the State Tax Commission and shall be made by the  
548 due date, including extensions of time, for filing the taxpayer's  
549 return for the taxable year of the net operating loss for which  
550 the election is to be in effect. The election, once made for any  
551 taxable year, shall be irrevocable for that taxable year.

552 (m) **Amortization of pollution or environmental control**  
553 **facilities.** Allowance of deduction. Every taxpayer, at his  
554 election, shall be entitled to a deduction for pollution or



555 environmental control facilities to the same extent as that  
556 allowed under the Internal Revenue Code and the rules,  
557 regulations, rulings and determinations promulgated thereunder.

558           (n) **Dividend distributions - real estate investment**  
559 **trusts.** "Real estate investment trust" (hereinafter referred to  
560 as REIT) shall have the meaning ascribed to such term in Section  
561 856 of the federal Internal Revenue Code of 1986, as amended. A  
562 REIT is allowed a dividend distributed deduction if the dividend  
563 distributions meet the requirements of Section 857 or are  
564 otherwise deductible under Section 858 or 860, federal Internal  
565 Revenue Code of 1986, as amended. In addition:

566           (i) A dividend distributed deduction shall only be  
567 allowed for dividends paid by a publicly traded REIT. A qualified  
568 REIT subsidiary shall be allowed a dividend distributed deduction  
569 if its owner is a publicly traded REIT.

570           (ii) Income generated from real estate contributed  
571 or sold to a REIT by a shareholder or related party shall not give  
572 rise to a dividend distributed deduction, unless the shareholder  
573 or related party would have received the dividend distributed  
574 deduction under this chapter.

575           (iii) A holding corporation receiving a dividend  
576 from a REIT shall not be allowed the deduction in Section  
577 27-7-15(4)(t).

578           (iv) Any REIT not allowed the dividend distributed  
579 deduction in the federal Internal Revenue Code of 1986, as  
580 amended, shall not be allowed a dividend distributed deduction  
581 under this chapter.

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

586           (o) **Contributions to college savings trust fund**  
587 **accounts.** Contributions or payments to a Mississippi Affordable



588 College Savings Program account are deductible as provided under  
589 Section 37-155-113. Payments made under a prepaid tuition  
590 contract entered into under the Mississippi Prepaid Affordable  
591 College Tuition Program are deductible as provided under Section  
592 37-155-17.

593 (2) **Individual nonbusiness deductions.**

594 (a) Except as otherwise provided in this subsection  
595 (2), the amount allowable for individual nonbusiness itemized  
596 deductions for federal income tax purposes where the individual is  
597 eligible to elect, for the taxable year, to itemize deductions on  
598 his federal return except the following:

599 (i) The deduction for state income taxes paid;

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

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

604 (iv) The deduction for taxes collected by gaming  
605 establishments pursuant to Section 27-7-903.

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

611 (i) Three Thousand Four Hundred Dollars  
612 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
613 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
614 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
615 in the case of married individuals filing a joint or combined  
616 return;

617 (ii) One Thousand Seven Hundred Dollars  
618 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
619 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
620 Three Hundred Dollars (\$2,300.00) for each calendar year



621 thereafter in the case of married individuals filing separate  
622 returns;

623 (iii) Three Thousand Four Hundred Dollars  
624 (\$3,400.00) in the case of a head of family; or

625 (iv) Two Thousand Three Hundred Dollars  
626 (\$2,300.00) in the case of an individual who is not married.

627 In the case of a husband and wife living together, having  
628 separate incomes, and filing combined returns, the standard  
629 deduction authorized may be divided in any manner they choose. In  
630 the case of separate returns by a husband and wife, the standard  
631 deduction shall not be allowed to either if the taxable income of  
632 one of the spouses is determined without regard to the standard  
633 deduction.

634 (c) An individual eligible for the itemized deductions  
635 authorized in paragraph (a) of this subsection (2) or the standard  
636 deduction authorized in paragraph (b) of this subsection (2) may  
637 claim a deduction for expenses incurred for medical care or  
638 prescribed drugs, or both, for the individual, the individual's  
639 spouse or dependents, regardless of the amount of such expenses  
640 incurred during the taxable year. An individual may not claim a  
641 deduction for expenses that are compensated for by insurance or  
642 otherwise. For the purposes of this paragraph (c), the terms  
643 "medical care" and "prescribed drugs" have the same definitions as  
644 those terms have in 26 USCS 213.

645 (d) A nonresident individual shall be allowed the same  
646 individual nonbusiness deductions as are authorized for resident  
647 individuals in \* \* \* this subsection (2); however, the nonresident  
648 individual is entitled only to that proportion of the individual  
649 nonbusiness deductions as his net income from sources within the  
650 State of Mississippi bears to his total or entire net income from  
651 all sources.

652 (3) Nothing in this section shall permit the same item to be  
653 deducted more than once, either in fact or in effect.



654           **SECTION 2.** Nothing in this act shall affect or defeat any  
655 claim, assessment, appeal, suit, right or cause of action for  
656 taxes due or accrued under the income tax laws before the date on  
657 which this act becomes effective, whether such claims,  
658 assessments, appeals, suits or actions have been begun before the  
659 date on which this act becomes effective or are begun thereafter;  
660 and the provisions of the income tax laws are expressly continued  
661 in full force, effect and operation for the purpose of the  
662 assessment, collection and enrollment of liens for any taxes due  
663 or accrued and the execution of any warrant under such laws before  
664 the date on which this act becomes effective, and for the  
665 imposition of any penalties, forfeitures or claims for failure to  
666 comply with such laws.

667           **SECTION 3.** This act shall take effect and be in force from  
668 and after January 1, 2003.

