

By: Representatives Rotenberry, Eakes,
Montgomery (15th)

To: Ways and Means

HOUSE BILL NO. 582

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT AMOUNTS RECEIVED BY A MISSIONARY LIVING ABROAD WHICH
3 MAY BE EXCLUDED FROM INCOME FOR FEDERAL INCOME TAX PURPOSES SHALL
4 BE EXCLUDED FROM GROSS INCOME FOR STATE INCOME TAX PURPOSES; AND
5 FOR RELATED PURPOSES.

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

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

9 **[Through June 30, 2003, this section shall read as 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 H.R. 3594, the Installment Tax Correction Act of 2000 of the
40 106th Congress, had not been enacted. This provision will
41 generally affect taxpayers, reporting on the accrual method of
42 accounting, entering into installment note agreements on or after
43 December 17, 1999. Any gain or profit resulting from the casual
44 sale of property will be recognized in the year of sale.

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



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62 is merged, liquidated, dissolved or withdrawn from this state,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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

240 (y) Amounts that are subject to the tax levied pursuant
241 to Section 27-7-903, and are paid to patrons by gaming
242 establishments not licensed under the Mississippi Gaming Control
243 Act.

244 (z) Amounts received by a missionary living abroad
245 which may be excluded from income for federal income tax purposes.

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

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

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



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

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

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

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

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



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

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

298 (6) A shareholder of an S corporation, as defined in Section
299 27-8-3(1)(g), shall take into account the income, loss, deduction
300 or credit of the S corporation only to the extent provided in
301 Section 27-8-7(2).

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

385 (e) The amounts received through accident or health
386 insurance as compensation for personal injuries or sickness, plus



387 the amount of any damages received for such injuries or such
388 sickness or injuries, or through the War Risk Insurance Act, or
389 any law for the benefit or relief of injured or disabled members
390 of the military or naval forces of the United States.

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

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

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

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

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

418 (k) Amounts received as retirement allowances,
419 pensions, annuities or optional retirement allowances paid under



420 the federal Social Security Act, the Railroad Retirement Act, the
421 Federal Civil Service Retirement Act, or any other retirement
422 system of the United States government, retirement allowances paid
423 under the Mississippi Public Employees' Retirement System,
424 Mississippi Highway Safety Patrol Retirement System or any other
425 retirement system of the State of Mississippi or any political
426 subdivision thereof. The exemption allowed under this paragraph
427 (k) shall be available to the spouse or other beneficiary at the
428 death of the primary retiree.

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

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

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



453 hospitalized as a result of wounds, disease or injury incurred
454 while serving in such combat zone.

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

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

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

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

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

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



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

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

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

497 (x) Amounts that are subject to the tax levied pursuant
498 to Section 27-7-903, and are paid to patrons by gaming
499 establishments not licensed under the Mississippi Gaming Control
500 Act.

501 (y) Amounts received by a missionary living abroad
502 which may be excluded from income for federal income tax purposes.

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

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

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

514 (c) **Period of conflict.** For the purpose of this
515 subsection, the Vietnam Conflict began February 28, 1961, and ends
516 on the date designated by the President by Executive Order as the
517 date of the termination of combatant activities in Vietnam. For



518 the purpose of this subsection, an individual is in a missing
519 status as a result of the Vietnam Conflict if immediately before
520 such status began he was performing service in Vietnam or was
521 performing service in Southeast Asia in direct support of military
522 operations in Vietnam. "Southeast Asia," as used in this
523 paragraph, is defined to include Cambodia, Laos, Thailand and
524 waters adjacent thereto.

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

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

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

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

546 (h) If refund or credit of any overpayment of tax for
547 any taxable year resulting from the application of subsection (5)
548 of this section is prevented by the operation of any law or rule
549 of law, such refund or credit of such overpayment of tax may,
550 nevertheless, be made or allowed if claim therefor is filed with



551 the State Tax Commission within three (3) years after the date of
552 the enactment of this subsection.

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

555 (6) A shareholder of an S corporation, as defined in Section
556 27-8-3(1)(g), shall take into account the income, loss, deduction
557 or credit of the S corporation only to the extent provided in
558 Section 27-8-7(2).

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

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

