

By: Representative Zuber

To: Ways and Means

HOUSE BILL NO. 815

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

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

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

11 [Through June 30, 2003, this section shall read as 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 Five Thousand Dollars (\$5,000.00) for any taxable year received by  
180 a member of the National Guard or Reserve Forces of the United  
181 States as payment for inactive duty training, active duty training  
182 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 (y) Amounts that are subject to the tax levied pursuant  
243 to Section 27-7-903, and are paid to patrons by gaming  
244 establishments not licensed under the Mississippi Gaming Control  
245 Act.

246 (z) Compensation received by a resident for active  
247 federal service as a member of the Armed Forces of the United  
248 States in an active duty status while such person is stationed  
249 outside the State of Mississippi pursuant to military orders.

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

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

257 (b) **Civilian employees.** Gross income does not include  
258 compensation received for active service as an employee for any





259 month during any part of which such employee is in a missing  
260 status during the Vietnam Conflict as a result of such conflict.

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

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

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

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

289 (g) "Compensation" means (i) basic pay; (ii) special  
290 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)



291 basic allowance for subsistence; and (vi) station per diem  
292 allowances for not more than ninety (90) days.

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

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

302 (6) A shareholder of an S corporation, as defined in Section  
303 27-8-3(1)(g), shall take into account the income, loss, deduction  
304 or credit of the S corporation only to the extent provided in  
305 Section 27-8-7(2).

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

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



324 agreement authorized under Section 25-17-5 shall be excluded from  
325 the term "gross income" within the meaning of this article.

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

329 (a) **Dealers in property.** Federal rules, regulations  
330 and revenue procedures shall be followed with respect to  
331 installment sales.

332 (b) **Casual sales of property.** Federal rules,  
333 regulations and revenue procedures shall be followed with respect  
334 to installment sales.

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

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

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

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



356 exchanges or payment for services, or require consolidated returns  
357 of affiliates.

358 (e) **Alimony and separate maintenance payments.** The  
359 federal rules, regulations and revenue procedures in determining  
360 the deductibility and taxability of alimony payments shall be  
361 followed in this state.

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

449           (n) Compensation received for active service as a  
450 member below the grade of commissioned officer and so much of the  
451 compensation as does not exceed the aggregate sum of Five Hundred  
452 Dollars (\$500.00) per month received for active service as a  
453 commissioned officer in the Armed Forces of the United States for  
454 any month during any part of which such members of the Armed



455 Forces (i) served in a combat zone as designated by Executive  
456 Order of the President of the United States; or (ii) was  
457 hospitalized as a result of wounds, disease or injury incurred  
458 while serving in such combat zone.

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

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

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

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

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



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

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

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

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

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

505 (y) Compensation received by a resident for active  
506 federal service as a member of the Armed Forces of the United  
507 States in an active duty status while such person is stationed  
508 outside the State of Mississippi pursuant to military orders.

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

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

516 (b) **Civilian employees.** Gross income does not include  
517 compensation received for active service as an employee for any





518 month during any part of which such employee is in a missing  
519 status during the Vietnam Conflict as a result of such conflict.

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

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

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

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

548 (g) "Compensation" means (i) basic pay; (ii) special  
549 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)



550 basic allowance for subsistence; and (vi) station per diem  
551 allowances for not more than ninety (90) days.

552 (h) If refund or credit of any overpayment of tax for  
553 any taxable year resulting from the application of subsection (5)  
554 of this section is prevented by the operation of any law or rule  
555 of law, such refund or credit of such overpayment of tax may,  
556 nevertheless, be made or allowed if claim therefor is filed with  
557 the State Tax Commission within three (3) years after the date of  
558 the enactment of this subsection.

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

561 (6) A shareholder of an S corporation, as defined in Section  
562 27-8-3(1)(g), shall take into account the income, loss, deduction  
563 or credit of the S corporation only to the extent provided in  
564 Section 27-8-7(2).

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

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

