

By: Representative Howell

To: Ways and Means

HOUSE BILL NO. 1475

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE THAT PREMIUMS PAID BY AN INDIVIDUAL FOR HEALTH INSURANCE
 3 THAT IS OFFERED BY OR THROUGH THE INDIVIDUAL'S EMPLOYER SHALL BE
 4 EXCLUDED FROM GROSS INCOME FOR STATE INCOME TAX PURPOSES; TO AMEND
 5 SECTION 27-7-18, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
 6 PREMIUMS PAID BY AN INDIVIDUAL FOR HEALTH INSURANCE THAT IS NOT
 7 OFFERED BY OR THROUGH THE INDIVIDUAL'S EMPLOYER SHALL BE
 8 DEDUCTIBLE AS AN ADJUSTMENT TO GROSS INCOME FOR STATE INCOME TAX
 9 PURPOSES; AND FOR RELATED PURPOSES.

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

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

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

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



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

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

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

39 (b) **Casual sales of property.**

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

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



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

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

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

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

94 (e) **Alimony and separate maintenance payments.** The
95 federal rules, regulations and revenue procedures in determining



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

248 (z) Amounts paid by an individual as premiums for
249 health insurance covering the individual and any dependents of the
250 individual that is offered by or through the individual's
251 employer, if those amounts are not already excluded from gross
252 income because they are covered under a cafeteria plan as defined
253 in Section 125 of the Internal Revenue Code and regulations
254 adopted under that section.

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

256 (a) **Members of the Armed Forces.** Gross income does not
257 include compensation received for active service as a member of
258 the Armed Forces of the United States for any month during any
259 part of which such member is in a missing status, as defined in



260 paragraph (d) of this subsection, during the Vietnam Conflict as a
261 result of such conflict.

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

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

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

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

289 (f) "Employee" means one who is a citizen or national
290 of the United States or an alien admitted to the United States for
291 permanent residence and is a resident of the State of Mississippi



292 and is employed in or under a federal executive agency or
293 department of the Armed Forces.

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

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

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

307 (6) A shareholder of an S corporation, as defined in Section
308 27-8-3(1)(g), shall take into account the income, loss, deduction
309 or credit of the S corporation only to the extent provided in
310 Section 27-8-7(2).

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

313 27-7-15. (1) For the purposes of this article, except as
314 otherwise provided, the term "gross income" means and includes the
315 income of a taxpayer derived from salaries, wages, fees or
316 compensation for service, of whatever kind and in whatever form
317 paid, including income from governmental agencies and subdivisions
318 thereof; or from professions, vocations, trades, businesses,
319 commerce or sales, or renting or dealing in property, or
320 reacquired property; also from annuities, interest, rents,
321 dividends, securities, insurance premiums, reinsurance premiums,
322 considerations for supplemental insurance contracts, or the
323 transaction of any business carried on for gain or profit, or
324 gains, or profits, and income derived from any source whatever and



325 in whatever form paid. The amount of all such items of income
326 shall be included in the gross income for the taxable year in
327 which received by the taxpayer. The amount by which an eligible
328 employee's salary is reduced pursuant to a salary reduction
329 agreement authorized under Section 25-17-5 shall be excluded from
330 the term "gross income" within the meaning of this article.

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

334 (a) **Dealers in property.** Federal rules, regulations
335 and revenue procedures shall be followed with respect to
336 installment sales.

337 (b) **Casual sales of property.** Federal rules,
338 regulations and revenue procedures shall be followed with respect
339 to installment sales.

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

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

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

352 (d) **Affiliated companies or persons.** As regards sales,
353 exchanges or payments for services from one to another of
354 affiliated companies or persons or under other circumstances where
355 the relation between the buyer and seller is such that gross
356 proceeds from the sale or the value of the exchange or the payment
357 for services are not indicative of the true value of the subject



358 matter of the sale, exchange or payment for services, the
359 commissioner shall prescribe uniform and equitable rules for
360 determining the true value of the gross income, gross sales,
361 exchanges or payment for services, or require consolidated returns
362 of affiliates.

363 (e) **Alimony and separate maintenance payments.** The
364 federal rules, regulations and revenue procedures in determining
365 the deductibility and taxability of alimony payments shall be
366 followed in this state.

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

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

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

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

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

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

389 (d) Interest upon the obligations of the United States
390 or its possessions, or securities issued under the provisions of



391 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
392 War Finance Corporation, or obligations of the State of
393 Mississippi or political subdivisions thereof.

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

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

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

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

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



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

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

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

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

454 (n) Compensation received for active service as a
455 member below the grade of commissioned officer and so much of the



456 compensation as does not exceed the aggregate sum of Five Hundred
457 Dollars (\$500.00) per month received for active service as a
458 commissioned officer in the Armed Forces of the United States for
459 any month during any part of which such members of the Armed
460 Forces (i) served in a combat zone as designated by Executive
461 Order of the President of the United States; or (ii) was
462 hospitalized as a result of wounds, disease or injury incurred
463 while serving in such combat zone.

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

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

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

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

487 (s) Amounts paid by the Mississippi Soil and Water
488 Conservation Commission from the Mississippi Soil and Water



489 Cost-Share Program for the installation of water quality best
490 management practices.

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

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

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

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

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

510 (y) Amounts paid by an individual as premiums for
511 health insurance covering the individual and any dependents of the
512 individual that is offered by or through the individual's
513 employer, if those amounts are not already excluded from gross
514 income because they are covered under a cafeteria plan as defined
515 in Section 125 of the Internal Revenue Code and regulations
516 adopted under that section.

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

518 (a) **Members of the Armed Forces.** Gross income does not
519 include compensation received for active service as a member of
520 the Armed Forces of the United States for any month during any
521 part of which such member is in a missing status, as defined in



522 paragraph (d) of this subsection, during the Vietnam Conflict as a
523 result of such conflict.

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

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

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

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

551 (f) "Employee" means one who is a citizen or national
552 of the United States or an alien admitted to the United States for
553 permanent residence and is a resident of the State of Mississippi



554 and is employed in or under a federal executive agency or
555 department of the Armed Forces.

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

560 (h) If refund or credit of any overpayment of tax for
561 any taxable year resulting from the application of subsection (5)
562 of this section is prevented by the operation of any law or rule
563 of law, such refund or credit of such overpayment of tax may,
564 nevertheless, be made or allowed if claim therefor is filed with
565 the State Tax Commission within three (3) years after the date of
566 the enactment of this subsection.

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

569 (6) A shareholder of an S corporation, as defined in Section
570 27-8-3(1)(g), shall take into account the income, loss, deduction
571 or credit of the S corporation only to the extent provided in
572 Section 27-8-7(2).

573 **SECTION 2.** Section 27-7-18, Mississippi Code of 1972, is
574 amended as follows:

575 27-7-18. (1) Alimony payments. In the case of a person
576 described in Section 27-7-15(2)(e), there shall be allowed as a
577 deduction from gross income amounts paid as periodic payments to
578 the extent of such amounts as are includible in the gross income
579 of the spouse as provided in Section 27-7-15(2)(e), payment of
580 which is made within the person's taxable year.

581 (2) Unreimbursed moving expenses incurred after December 31,
582 1994, are deductible as an adjustment to gross income in
583 accordance with provisions of the United States Internal Revenue
584 Code, and rules, regulations and revenue procedures thereunder
585 relating to moving expenses, not in direct conflict with the
586 provisions of the Mississippi Income Tax Law.



587 (3) Amounts paid after December 31, 1998, by a self-employed
588 individual for insurance which constitute medical care for the
589 taxpayer, his spouse and dependents, are deductible as an
590 adjustment to gross income in accordance with provisions of the
591 United States Internal Revenue Code, and rules, regulations and
592 revenue procedures thereunder relating to such payments, not in
593 direct conflict with the provisions of the Mississippi Income Tax
594 Law.

595 (4) Contributions or payments to a Mississippi Affordable
596 College Savings (MACS) Program account are deductible from gross
597 income as provided in Section 37-155-113. Payments made under a
598 prepaid tuition contract entered into under the Mississippi
599 Prepaid Affordable College Tuition Program are deductible as
600 provided in Section 37-155-17.

601 (5) Health insurance premiums. Amounts paid by an
602 individual as premiums for health insurance covering the
603 individual and any dependents of the individual that is not
604 offered by or through the individual's employer are deductible as
605 an adjustment to gross income.

606 **SECTION 3.** Nothing in this act shall affect or defeat any
607 claim, assessment, appeal, suit, right or cause of action for
608 taxes due or accrued under the income tax laws before the date on
609 which this act becomes effective, whether such claims,
610 assessments, appeals, suits or actions have been begun before the
611 date on which this act becomes effective or are begun thereafter;
612 and the provisions of the income tax laws are expressly continued
613 in full force, effect and operation for the purpose of the
614 assessment, collection and enrollment of liens for any taxes due
615 or accrued and the execution of any warrant under such laws before
616 the date on which this act becomes effective, and for the
617 imposition of any penalties, forfeitures or claims for failure to
618 comply with such laws.



619 **SECTION 4.** This act shall take effect and be in force from
620 and after January 1, 2003.

