

By: Senator(s) Ross

To: Finance

SENATE BILL NO. 2048

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

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

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

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

11 27-7-15. (1) For the purposes of this article, except as
12 otherwise provided, the term "gross income" means and includes the
13 income of a taxpayer derived from salaries, wages, fees or
14 compensation for service, of whatever kind and in whatever form
15 paid, including income from governmental agencies and subdivisions
16 thereof; or from professions, vocations, trades, businesses,
17 commerce or sales, or renting or dealing in property, or
18 reacquired property; also from annuities, interest, rents,
19 dividends, securities, insurance premiums, reinsurance premiums,
20 considerations for supplemental insurance contracts, or the
21 transaction of any business carried on for gain or profit, or
22 gains, or profits, and income derived from any source whatever and
23 in whatever form paid. The amount of all such items of income
24 shall be included in the gross income for the taxable year in
25 which received by the taxpayer. The amount by which an eligible
26 employee's salary is reduced pursuant to a salary reduction
27 agreement authorized under Section 25-17-5 shall be excluded from
28 the term "gross income" within the meaning of this article.



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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

256 (c) **Period of conflict.** For the purpose of this
257 subsection, the Vietnam Conflict began February 28, 1961, and ends
258 on the date designated by the President by Executive Order as the



259 date of the termination of combatant activities in Vietnam. For
260 the purpose of this subsection, an individual is in a missing
261 status as a result of the Vietnam Conflict if immediately before
262 such status began he was performing service in Vietnam or was
263 performing service in Southeast Asia in direct support of military
264 operations in Vietnam. "Southeast Asia," as used in this
265 paragraph, is defined to include Cambodia, Laos, Thailand and
266 waters adjacent thereto.

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

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

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

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

288 (h) If refund or credit of any overpayment of tax for
289 any taxable year resulting from the application of subsection (5)
290 of this section is prevented by the operation of any law or rule
291 of law, such refund or credit of such overpayment of tax may,



292 nevertheless, be made or allowed if claim therefor is filed with
293 the State Tax Commission within three (3) years after the date of
294 the enactment of this subsection.

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

417 (k) Amounts received as retirement allowances,
418 pensions, annuities or optional retirement allowances paid under
419 the federal Social Security Act, the Railroad Retirement Act, the
420 Federal Civil Service Retirement Act, or any other retirement
421 system of the United States government, retirement allowances paid
422 under the Mississippi Public Employees' Retirement System,



423 Mississippi Highway Safety Patrol Retirement System or any other
424 retirement system of the State of Mississippi or any political
425 subdivision thereof. The exemption allowed under this paragraph
426 (k) shall be available to the spouse or other beneficiary at the
427 death of the primary retiree.

428 (1) Amounts received as retirement allowances,
429 pensions, annuities or optional retirement allowances paid by any
430 public or governmental retirement system not designated in
431 paragraph (k) or any private retirement system or plan of which
432 the recipient was a member at any time during the period of his
433 employment. Amounts received as a distribution under a Roth
434 individual retirement account shall be treated in the same manner
435 as provided under the Internal Revenue Code of 1986, as amended.
436 The exemption allowed under this paragraph (1) shall be available
437 to the spouse or other beneficiary at the death of the primary
438 retiree.

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

511 (c) **Period of conflict.** For the purpose of this
512 subsection, the Vietnam Conflict began February 28, 1961, and ends
513 on the date designated by the President by Executive Order as the
514 date of the termination of combatant activities in Vietnam. For
515 the purpose of this subsection, an individual is in a missing
516 status as a result of the Vietnam Conflict if immediately before
517 such status began he was performing service in Vietnam or was
518 performing service in Southeast Asia in direct support of military
519 operations in Vietnam. "Southeast Asia," as used in this



520 paragraph, is defined to include Cambodia, Laos, Thailand and
521 waters adjacent thereto.

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

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

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

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

543 (h) If refund or credit of any overpayment of tax for
544 any taxable year resulting from the application of subsection (5)
545 of this section is prevented by the operation of any law or rule
546 of law, such refund or credit of such overpayment of tax may,
547 nevertheless, be made or allowed if claim therefor is filed with
548 the State Tax Commission within three (3) years after the date of
549 the enactment of this subsection.

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



552 (6) A shareholder of an S corporation, as defined in Section
553 27-8-3(1)(g), shall take into account the income, loss, deduction
554 or credit of the S corporation only to the extent provided in
555 Section 27-8-7(2).

556 **SECTION 2.** This act shall take effect and be in force from
557 and after January 1, 2003.

