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To: Ways and Means

HOUSE BILL NO. 1784

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO  
 2 INCREASE THE AMOUNT OF COMPENSATION RECEIVED BY A COMMISSIONED  
 3 OFFICER IN THE ARMED FORCES FOR SERVICE IN A COMBAT ZONE OR WHILE  
 4 HOSPITALIZED AS A RESULT OF WOUNDS, DISEASE OR INJURY INCURRED  
 5 WHILE SERVING IN A COMBAT ZONE THAT IS EXCLUDED FROM THE MEANING  
 6 OF "GROSS INCOME" FOR PURPOSES OF THE STATE INCOME TAX LAW; TO  
 7 PROVIDE THAT A PORTION OF THE COMPENSATION RECEIVED BY A  
 8 COMMISSIONED OFFICER IN THE ARMED FORCES FOR SERVICE IN A  
 9 QUALIFIED HAZARDOUS DUTY AREA OR WHILE HOSPITALIZED AS A RESULT OF  
 10 WOUNDS, DISEASE OR INJURY INCURRED WHILE SERVING IN A QUALIFIED  
 11 HAZARDOUS DUTY AREA SHALL BE EXCLUDED FROM THE MEANING OF "GROSS  
 12 INCOME" FOR PURPOSES OF THE STATE INCOME TAX LAW; TO AMEND SECTION  
 13 27-7-18, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT UNREIMBURSED  
 14 EXPENSES OF MEMBERS OF THE NATIONAL GUARD OR THE ARMED FORCES  
 15 RESERVES FOR OVERNIGHT TRAVEL AWAY FROM HOME TO ATTEND MEETINGS OF  
 16 THE NATIONAL GUARD OR RESERVES ARE DEDUCTIBLE AS AN ADJUSTMENT TO  
 17 GROSS INCOME UNDER THE STATE INCOME TAX LAW IN ACCORDANCE WITH  
 18 PROVISIONS OF THE UNITED STATES INTERNAL REVENUE CODE; AND FOR  
 19 RELATED PURPOSES.

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

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

23 27-7-15. (1) For the purposes of this article, except as  
 24 otherwise provided, the term "gross income" means and includes the  
 25 income of a taxpayer derived from salaries, wages, fees or  
 26 compensation for service, of whatever kind and in whatever form  
 27 paid, including income from governmental agencies and subdivisions  
 28 thereof; or from professions, vocations, trades, businesses,  
 29 commerce or sales, or renting or dealing in property, or  
 30 reacquired property; also from annuities, interest, rents,  
 31 dividends, securities, insurance premiums, reinsurance premiums,  
 32 considerations for supplemental insurance contracts, or the  
 33 transaction of any business carried on for gain or profit, or  
 34 gains, or profits, and income derived from any source whatever and

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

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

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

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

49 (i) Prior to January 1, 2001, federal rules,  
50 regulations and revenue procedures shall be followed with respect  
51 to installment sales except they shall be applied and administered  
52 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the  
53 106th Congress, had not been enacted. This provision will  
54 generally affect taxpayers, reporting on the accrual method of  
55 accounting, entering into installment note agreements on or after  
56 December 17, 1999. Any gain or profit resulting from the casual  
57 sale of property will be recognized in the year of sale.

58 (ii) From and after January 1, 2001, federal  
59 rules, regulations and revenue procedures shall be followed with  
60 respect to installment sales except as provided in this  
61 subparagraph (ii). Gain or profit from the casual sale of  
62 property shall be recognized in the year of sale. When a taxpayer  
63 recognizes gain on the casual sale of property in which the gain  
64 is deferred for federal income tax purposes, a taxpayer may elect  
65 to defer the payment of tax resulting from the gain as allowed and  
66 to the extent provided under regulations prescribed by the  
67 commissioner. If the payment of the tax is made on a deferred

68 basis, the tax shall be computed based on the applicable rate for  
69 the income reported in the year the payment is made. Except as  
70 otherwise provided in subparagraph (iii) of this paragraph (b),  
71 deferring the payment of the tax shall not affect the liability  
72 for the tax. If at any time the installment note is sold,  
73 contributed, transferred or disposed of in any manner and for any  
74 purpose by the original note holder, or the original note holder  
75 is merged, liquidated, dissolved or withdrawn from this state,  
76 then all deferred tax payments under this section shall  
77 immediately become due and payable.

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

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

92 (d) **Affiliated companies or persons.** As regards sales,  
93 exchanges or payments for services from one to another of  
94 affiliated companies or persons or under other circumstances where  
95 the relation between the buyer and seller is such that gross  
96 proceeds from the sale or the value of the exchange or the payment  
97 for services are not indicative of the true value of the subject  
98 matter of the sale, exchange or payment for services, the  
99 commissioner shall prescribe uniform and equitable rules for  
100 determining the true value of the gross income, gross sales,

101 exchanges or payment for services, or require consolidated returns  
102 of affiliates.

103           (e) **Alimony and separate maintenance payments.** The  
104 federal rules, regulations and revenue procedures in determining  
105 the deductibility and taxability of alimony payments shall be  
106 followed in this state.

107           (f) **Reimbursement for expenses of moving.** There shall  
108 be included in gross income (as compensation for services) any  
109 amount received or accrued, directly or indirectly, by an  
110 individual as a payment for or reimbursement of expenses of moving  
111 from one residence to another residence which is attributable to  
112 employment or self-employment.

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

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

118           (a) The proceeds of life insurance policies and  
119 contracts paid upon the death of the insured. However, the income  
120 from the proceeds of such policies or contracts shall be included  
121 in the gross income.

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

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

129           (d) Interest upon the obligations of the United States  
130 or its possessions, or securities issued under the provisions of  
131 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the  
132 War Finance Corporation, or obligations of the State of  
133 Mississippi or political subdivisions thereof.

134           (e) The amounts received through accident or health  
135 insurance as compensation for personal injuries or sickness, plus  
136 the amount of any damages received for such injuries or such  
137 sickness or injuries, or through the War Risk Insurance Act, or  
138 any law for the benefit or relief of injured or disabled members  
139 of the military or naval forces of the United States.

140           (f) Income received by any religious denomination or by  
141 any institution or trust for moral or mental improvements,  
142 religious, Bible, tract, charitable, benevolent, fraternal,  
143 missionary, hospital, infirmary, educational, scientific,  
144 literary, library, patriotic, historical or cemetery purposes or  
145 for two (2) or more of such purposes, if such income be used  
146 exclusively for carrying out one or more of such purposes.

147           (g) Income received by a domestic corporation which is  
148 "taxable in another state" as this term is defined in this  
149 article, derived from business activity conducted outside this  
150 state. Domestic corporations taxable both within and without the  
151 state shall determine Mississippi income on the same basis as  
152 provided for foreign corporations under the provisions of this  
153 article.

154           (h) In case of insurance companies, there shall be  
155 excluded from gross income such portion of actual premiums  
156 received from an individual policyholder as is paid back or  
157 credited to or treated as an abatement of premiums of such  
158 policyholder within the taxable year.

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

163           (j) Amounts paid by the United States to a person as  
164 added compensation for hazardous duty pay as a member of the Armed  
165 Forces of the United States in a combat zone designated by  
166 Executive Order of the President of the United States.

167           (k) Amounts received as retirement allowances,  
168 pensions, annuities or optional retirement allowances paid under  
169 the federal Social Security Act, the Railroad Retirement Act, the  
170 Federal Civil Service Retirement Act, or any other retirement  
171 system of the United States government, retirement allowances paid  
172 under the Mississippi Public Employees' Retirement System,  
173 Mississippi Highway Safety Patrol Retirement System or any other  
174 retirement system of the State of Mississippi or any political  
175 subdivision thereof. The exemption allowed under this paragraph  
176 (k) shall be available to the spouse or other beneficiary at the  
177 death of the primary retiree.

178           (l) Amounts received as retirement allowances,  
179 pensions, annuities or optional retirement allowances paid by any  
180 public or governmental retirement system not designated in  
181 paragraph (k) or any private retirement system or plan of which  
182 the recipient was a member at any time during the period of his  
183 employment. Amounts received as a distribution under a Roth  
184 Individual Retirement Account shall be treated in the same manner  
185 as provided under the Internal Revenue Code of 1986, as amended.  
186 The exemption allowed under this paragraph (l) shall be available  
187 to the spouse or other beneficiary at the death of the primary  
188 retiree.

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

194           (n) Compensation received for active service as a  
195 member below the grade of commissioned officer and so much of the  
196 compensation as does not exceed the maximum enlisted amount  
197 received for active service as a commissioned officer in the Armed  
198 Forces of the United States for any month during any part of which  
199 such members of the Armed Forces (i) served in a combat zone as

200 designated by Executive Order of the President of the United  
201 States; or a qualified hazardous duty area as defined by federal  
202 law, or both; or (ii) was hospitalized as a result of wounds,  
203 disease or injury incurred while serving in such combat zone or  
204 qualified hazardous duty area, or both. For the purposes of this  
205 paragraph (n), the term "maximum enlisted amount" means and has  
206 the same definition as that term has in 26 USCS 112.

207 (o) The proceeds received from federal and state  
208 forestry incentives programs.

209 (p) The amount representing the difference between the  
210 increase of gross income derived from sales for export outside the  
211 United States as compared to the preceding tax year wherein gross  
212 income from export sales was highest, and the net increase in  
213 expenses attributable to such increased exports. In the absence  
214 of direct accounting the ratio of net profits to total sales may  
215 be applied to the increase in export sales. This paragraph (p)  
216 shall only apply to businesses located in this state engaging in  
217 the international export of Mississippi goods and services. Such  
218 goods or services shall have at least fifty percent (50%) of value  
219 added at a location in Mississippi.

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

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

230 (s) Amounts paid by the Mississippi Soil and Water  
231 Conservation Commission from the Mississippi Soil and Water

232 Cost-Share Program for the installation of water quality best  
233 management practices.

234 (t) Dividends received by a holding corporation, as  
235 defined in Section 27-13-1, from a subsidiary corporation, as  
236 defined in Section 27-13-1.

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

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

246 (w) Income resulting from transactions with a related  
247 member where the related member subject to tax under this chapter  
248 was required to, and did in fact, add back the expense of such  
249 transactions as required by Section 27-7-17(2). Under no  
250 circumstances may the exclusion from income exceed the deduction  
251 add-back of the related member, nor shall the exclusion apply to  
252 any income otherwise excluded under this chapter.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

312 (6) A shareholder of an S corporation, as defined in Section  
313 27-8-3(1)(g), shall take into account the income, loss, deduction  
314 or credit of the S corporation only to the extent provided in  
315 Section 27-8-7(2).

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

318 27-7-18. (1) Alimony payments. In the case of a person  
319 described in Section 27-7-15(2)(e), there shall be allowed as a  
320 deduction from gross income amounts paid as periodic payments to  
321 the extent of such amounts as are includible in the gross income  
322 of the spouse as provided in Section 27-7-15(2)(e), payment of  
323 which is made within the person's taxable year.

324 (2) Unreimbursed moving expenses incurred after December 31,  
325 1994, are deductible as an adjustment to gross income in  
326 accordance with provisions of the United States Internal Revenue  
327 Code, and rules, regulations and revenue procedures thereunder  
328 relating to moving expenses, not in direct conflict with the  
329 provisions of the Mississippi Income Tax Law.

330 (3) Amounts paid after December 31, 1998, by a self-employed  
331 individual for insurance which constitute medical care for the  
332 taxpayer, his spouse and dependents, are deductible as an  
333 adjustment to gross income in accordance with provisions of the  
334 United States Internal Revenue Code, and rules, regulations and  
335 revenue procedures thereunder relating to such payments, not in  
336 direct conflict with the provisions of the Mississippi Income Tax  
337 Law.

338 (4) Contributions or payments to a Mississippi Affordable  
339 College Savings (MACS) Program account are deductible from gross  
340 income as provided in Section 37-155-113. Payments made under a  
341 prepaid tuition contract entered into under the Mississippi  
342 Prepaid Affordable College Tuition Program are deductible as  
343 provided in Section 37-155-17.

344 (5) Unreimbursed expenses of members of the National Guard  
345 or any reserve component of the Armed Forces of the United States  
346 for overnight travel away from home to attend meetings of the  
347 National Guard or reserve component of the Armed Forces are  
348 deductible as an adjustment to gross income in accordance with  
349 provisions of the United States Internal Revenue Code, and rules,  
350 regulations and revenue procedures under the Internal Revenue Code  
351 relating to those travel expenses, not in direct conflict with the  
352 provisions of the Mississippi Income Tax Law.

353 **SECTION 3.** Nothing in this act shall affect or defeat any  
354 claim, assessment, appeal, suit, right or cause of action for  
355 taxes due or accrued under the income tax laws before the date on  
356 which this act becomes effective, whether such claims,  
357 assessments, appeals, suits or actions have been begun before the  
358 date on which this act becomes effective or are begun thereafter;  
359 and the provisions of the income tax laws are expressly continued  
360 in full force, effect and operation for the purpose of the  
361 assessment, collection and enrollment of liens for any taxes due  
362 or accrued and the execution of any warrant under such laws before

363 the date on which this act becomes effective, and for the  
364 imposition of any penalties, forfeitures or claims for failure to  
365 comply with such laws.

366         **SECTION 4.** This act shall take effect and be in force from  
367 and after January 1, 2004.