

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1327

1 AN ACT TO AMEND SECTIONS 27-7-71 AND 27-13-43, MISSISSIPPI  
 2 CODE OF 1972, TO REMOVE THE REQUIREMENT THAT THE CHAIRMAN OF THE  
 3 STATE TAX COMMISSION MUST APPROVE DETERMINATIONS OF THE BOARD OF  
 4 REVIEW OF THE STATE TAX COMMISSION IN APPEALS FROM DECISIONS OF  
 5 THE CHAIRMAN REGARDING INCOME AND FRANCHISE TAXES; TO AMEND  
 6 SECTIONS 27-7-11, 27-7-17, 27-7-39, 27-7-81 AND 27-7-343,  
 7 MISSISSIPPI CODE OF 1972, TO REMOVE THE REQUIREMENT THAT THE  
 8 GOVERNOR MUST APPROVE CERTAIN RULES AND REGULATIONS PRESCRIBED  
 9 UNDER THE INCOME TAX LAWS; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 27-7-71, Mississippi Code of 1972, is  
 12 amended as follows:

13 27-7-71. (1) A taxpayer who feels aggrieved at any action  
 14 of the commissioner under Sections 27-7-49, 27-7-51 or 27-7-53,  
 15 may appeal to the board of review, as legally constituted and  
 16 authorized by Section 27-7-79, for a hearing in the matter within  
 17 thirty (30) days from the date of said action. The board of  
 18 review shall grant a hearing thereon at the earliest practical  
 19 date. At said hearing, the board of review shall try the issues  
 20 presented, according to law and the facts, and shall within thirty  
 21 (30) days from the date of the hearing make a determination \* \* \*  
 22 and notify the taxpayer of its findings. Any overpayment of tax  
 23 determined by the approved order of the board of review shall be  
 24 credited, or refunded, to the taxpayer. Any tax deficiency,  
 25 including any penalty and interest, determined by the approved  
 26 order of the board of review shall be paid by the taxpayer within  
 27 thirty (30) days from the date of notification to the taxpayer,  
 28 and, if the deficiency is not paid within the thirty-day period,  
 29 the commissioner shall proceed to collect the deficiency under the  
 30 provisions of Sections 27-7-55 through 27-7-67 \* \* \*; provided,

31 that within the thirty-day period the taxpayer may appeal to the  
32 State Tax Commission from the decision of the board of review, as  
33 hereinafter set out.

34 (2) A taxpayer who feels aggrieved at any decision by the  
35 board of review, may appeal to the State Tax Commission by  
36 petition, in writing, within thirty (30) days from the date of the  
37 decision, for a hearing upon the action or decision of the board  
38 of review. In the petition the taxpayer shall set forth the  
39 reasons such hearing should be granted. The State Tax Commission  
40 shall promptly consider the petition, grant the hearing, and  
41 notify the petitioner of the time and place fixed for the hearing.  
42 In any hearing before the State Tax Commission, two (2) members  
43 constitute a quorum. At the hearing, the State Tax Commission  
44 shall try the issues presented, according to the law and the  
45 facts, and shall, as soon as practical thereafter, notify the  
46 taxpayer of its determination. Any overpayment of tax which the  
47 State Tax Commission may determine to have been paid shall be  
48 credited or refunded to the taxpayer. Any tax deficiency,  
49 including any penalty and interest, determined by the State Tax  
50 Commission shall be paid within thirty (30) days from the date of  
51 notification of the taxpayer, and if the deficiency is not paid  
52 within said thirty-day period, the State Tax Commission shall  
53 proceed to collect the deficiency under the provisions of Sections  
54 27-7-55 through 27-7-67; provided that within said thirty-day  
55 period the taxpayer may appeal from the decision of the State Tax  
56 Commission as hereinafter set out.

57 **SECTION 2.** Section 27-13-43, Mississippi Code of 1972, is  
58 amended as follows:

59 27-13-43. (1) A taxpayer who feels aggrieved at any action  
60 of the commissioner under Section 27-13-23 or 27-13-25, may appeal  
61 to the board of review, as legally constituted and authorized by  
62 Section 27-13-65, for a hearing in the matter within thirty (30)  
63 days from the date of the action. The board of review shall grant

64 a hearing thereon at the earliest practical date. At the hearing,  
65 the board of review shall try the issues presented, according to  
66 law and the facts, and shall within thirty (30) days from the date  
67 of said hearing make a determination \* \* \* and notify the taxpayer  
68 of its findings. Any overpayment of tax determined by the \* \* \*  
69 order of the board of review shall be credited, or refunded, to  
70 the taxpayer. Any tax deficiency, including any penalty and  
71 interest, determined by the approved order of the board of review  
72 shall be paid by the taxpayer within thirty (30) days from the  
73 date of notification to the taxpayer and if the deficiency is not  
74 paid within the thirty-day period, the commissioner shall proceed  
75 to collect the deficiency under the provisions of Sections  
76 27-13-29 through 27-13-41 \* \* \*; provided, that within the  
77 thirty-day period the taxpayer may appeal to the State Tax  
78 Commission from the decision of the board of review, as  
79 hereinafter set out.

80 (2) A taxpayer who feels aggrieved at any decision by the  
81 board of review, may appeal to the State Tax Commission by  
82 petition, in writing, within thirty (30) days from the date of the  
83 decision, for a hearing upon the action or decision of the board  
84 of review. In the petition the taxpayer shall set forth the  
85 reasons such hearing should be granted. The State Tax Commission  
86 shall promptly consider the petition, grant the hearing, and  
87 notify the petitioner of the time and place fixed for the hearing.  
88 In any hearing before the State Tax Commission, two (2) members  
89 constitute a quorum. At the hearing, the State Tax Commission  
90 shall try the issues presented, according to the law and the  
91 facts, and shall, as soon as practical thereafter, notify the  
92 taxpayer of its determination. Any overpayment of tax which the  
93 State Tax Commission may determine to have been paid shall be  
94 credited or refunded to the taxpayer. Any tax deficiency,  
95 including any penalty and interest, determined by the State Tax  
96 Commission shall be paid within thirty (30) days from the date of

97 notification of the taxpayer, and if the deficiency is not paid  
98 within the thirty-day period, the State Tax Commission shall  
99 proceed to collect the deficiency under the provisions of Sections  
100 27-13-29 through 27-13-41, provided that within said thirty-day  
101 period the taxpayer may appeal from the decision of the State Tax  
102 Commission as hereinafter set out.

103       **SECTION 3.** Section 27-7-11, Mississippi Code of 1972, is  
104 amended as follows:

105       27-7-11. Whenever, in the opinion of the commissioner, the  
106 use of inventories is necessary in order to clearly determine the  
107 income of any taxpayer, inventories shall be taken by such  
108 taxpayer upon such basis as the commissioner may prescribe \* \* \*  
109 in order to conform as nearly as may be to the best accounting  
110 practice in the trade or business, and in order to clearly reflect  
111 the income.

112       **SECTION 4.** Section 27-7-17, Mississippi Code of 1972, is  
113 amended as follows:

114       27-7-17. In computing taxable income, there shall be allowed  
115 as deductions:

116       (1) **Business deductions.**

117           (a) **Business expenses.** All the ordinary and necessary  
118 expenses paid or incurred during the taxable year in carrying on  
119 any trade or business, including a reasonable allowance for  
120 salaries or other compensation for personal services actually  
121 rendered; nonreimbursable traveling expenses incident to current  
122 employment, including a reasonable amount expended for meals and  
123 lodging while away from home in the pursuit of a trade or  
124 business; and rentals or other payments required to be made as a  
125 condition of the continued use or possession, for purposes of the  
126 trade or business of property to which the taxpayer has not taken  
127 or is not taking title or in which he had no equity. Expense  
128 incurred in connection with earning and distributing nontaxable  
129 income is not an allowable deduction. Limitations on

130 entertainment expenses shall conform to the provisions of the  
131 Internal Revenue Code of 1986.

132           (b) **Interest.** All interest paid or accrued during the  
133 taxable year on business indebtedness, except interest upon the  
134 indebtedness for the purchase of tax-free bonds, or any stocks,  
135 the dividends from which are nontaxable under the provisions of  
136 this article; provided, however, in the case of securities  
137 dealers, interest payments or accruals on loans, the proceeds of  
138 which are used to purchase tax-exempt securities, shall be  
139 deductible if income from otherwise tax-free securities is  
140 reported as income. Investment interest expense shall be limited  
141 to investment income. Interest expense incurred for the purchase  
142 of treasury stock, to pay dividends, or incurred as a result of an  
143 undercapitalized affiliated corporation may not be deducted unless  
144 an ordinary and necessary business purpose can be established to  
145 the satisfaction of the commissioner. For the purposes of this  
146 paragraph, the phrase "interest upon the indebtedness for the  
147 purchase of tax-free bonds" applies only to the indebtedness  
148 incurred for the purpose of directly purchasing tax-free bonds and  
149 does not apply to any other indebtedness incurred in the regular  
150 course of the taxpayer's business. Any corporation, association,  
151 organization or other entity taxable under Section 27-7-23(c)  
152 shall allocate interest expense as provided in Section  
153 27-7-23(c)(3)(I).

154           (c) **Taxes.** Taxes paid or accrued within the taxable  
155 year, except state and federal income taxes, excise taxes based on  
156 or measured by net income, estate and inheritance taxes, gift  
157 taxes, cigar and cigarette taxes, gasoline taxes, and sales and  
158 use taxes unless incurred as an item of expense in a trade or  
159 business or in the production of taxable income. In the case of  
160 an individual, taxes permitted as an itemized deduction under the  
161 provisions of subsection (3)(a) of this section are to be claimed  
162 thereunder.

163 (d) **Business losses.**

164 (i) Losses sustained during the taxable year not  
165 compensated for by insurance or otherwise, if incurred in trade or  
166 business, or nonbusiness transactions entered into for profit.

167 (ii) Limitations on losses from passive activities  
168 and rental real estate shall conform to the provisions of the  
169 Internal Revenue Code of 1986.

170 (e) **Bad debts.** Losses from debts ascertained to be  
171 worthless and charged off during the taxable year, if sustained in  
172 the conduct of the regular trade or business of the taxpayer;  
173 provided, that such losses shall be allowed only when the taxpayer  
174 has reported as income, on the accrual basis, the amount of such  
175 debt or account.

176 (f) **Depreciation.** A reasonable allowance for  
177 exhaustion, wear and tear of property used in the trade or  
178 business, or rental property, and depreciation upon buildings  
179 based upon their reasonable value as of March 16, 1912, if  
180 acquired prior thereto, and upon cost if acquired subsequent to  
181 that date.

182 (g) **Depletion.** In the case of mines, oil and gas  
183 wells, other natural deposits and timber, a reasonable allowance  
184 for depletion and for depreciation of improvements, based upon  
185 cost, including cost of development, not otherwise deducted, or  
186 fair market value as of March 16, 1912, if acquired prior to that  
187 date, such allowance to be made upon regulations prescribed by the  
188 commissioner \* \* \*.

189 (h) **Contributions or gifts.** Except as otherwise  
190 provided in subsection (3)(a) of this section for individuals,  
191 contributions or gifts made by corporations within the taxable  
192 year to corporations, organizations, associations or institutions,  
193 including Community Chest funds, foundations and trusts created  
194 solely and exclusively for religious, charitable, scientific or  
195 educational purposes, or for the prevention of cruelty to children

196 or animals, no part of the net earnings of which inure to the  
197 benefit of any private stockholder or individual. This deduction  
198 shall be allowed in an amount not to exceed twenty percent (20%)  
199 of the net income. Such contributions or gifts shall be allowable  
200 as deductions only if verified under rules and regulations  
201 prescribed by the commissioner \* \* \*. Contributions made in any  
202 form other than cash shall be allowed as a deduction, subject to  
203 the limitations herein provided, in an amount equal to the actual  
204 market value of the contributions at the time the contribution is  
205 actually made and consummated.

206 (i) **Reserve funds - insurance companies.** In the case  
207 of insurance companies the net additions required by law to be  
208 made within the taxable year to reserve funds when such reserve  
209 funds are maintained for the purpose of liquidating policies at  
210 maturity.

211 (j) **Annuity income.** The sums, other than dividends,  
212 paid within the taxpayer year on policy or annuity contracts when  
213 such income has been included in gross income.

214 (k) **Contributions to employee pension plans.**  
215 Contributions made by an employer to a plan or a trust forming  
216 part of a pension plan, stock bonus plan, disability or  
217 death-benefit plan, or profit-sharing plan of such employer for  
218 the exclusive benefit of some or all of his, their, or its  
219 employees, or their beneficiaries, shall be deductible from his,  
220 their, or its income only to the extent that, and for the taxable  
221 year in which, the contribution is deductible for federal income  
222 tax purposes under the Internal Revenue Code of 1986 and any other  
223 provisions of similar purport in the Internal Revenue Laws of the  
224 United States, and the rules, regulations, rulings and  
225 determinations promulgated thereunder, provided that:

226 (i) The plan or trust be irrevocable.

227 (ii) The plan or trust constitutes a part of a  
228 pension plan, stock bonus plan, disability or death-benefit plan,

229 or profit-sharing plan for the exclusive benefit of some or all of  
230 the employer's employees and/or officers, or their beneficiaries,  
231 for the purpose of distributing the corpus and income of the plan  
232 or trust to such employees and/or officers, or their  
233 beneficiaries.

234 (iii) No part of the corpus or income of the plan  
235 or trust can be used for purposes other than for the exclusive  
236 benefit of employees and/or officers, or their beneficiaries.

237 Contributions to all plans or to all trusts of real or  
238 personal property (or real and personal property combined) or to  
239 insured plans created under a retirement plan for which provision  
240 has been made under the laws of the United States of America,  
241 making such contributions deductible from income for federal  
242 income tax purposes, shall be deductible only to the same extent  
243 under the Income Tax Laws of the State of Mississippi.

244 (1) **Net operating loss carrybacks and carryovers.** A  
245 net operating loss for any taxable year ending after December 31,  
246 1993, and taxable years thereafter, shall be a net operating loss  
247 carryback to each of the three (3) taxable years preceding the  
248 taxable year of the loss. If the net operating loss for any  
249 taxable year is not exhausted by carrybacks to the three (3)  
250 taxable years preceding the taxable year of the loss, then there  
251 shall be a net operating loss carryover to each of the fifteen  
252 (15) taxable years following the taxable year of the loss  
253 beginning with any taxable year after December 31, 1991.

254 For any taxable year ending after December 31, 1997, the  
255 period for net operating loss carrybacks and net operating loss  
256 carryovers shall be the same as those established by the Internal  
257 Revenue Code and the rules, regulations, rulings and  
258 determinations promulgated thereunder as in effect at the taxable  
259 year end or on December 31, 2000, whichever is earlier.

260 A net operating loss for any taxable year ending after  
261 December 31, 2001, and taxable years thereafter, shall be a net



262 operating loss carryback to each of the two (2) taxable years  
263 preceding the taxable year of the loss. If the net operating loss  
264 for any taxable year is not exhausted by carrybacks to the two (2)  
265 taxable years preceding the taxable year of the loss, then there  
266 shall be a net operating loss carryover to each of the twenty (20)  
267 taxable years following the taxable year of the loss beginning  
268 with any taxable year after the taxable year of the loss.

269 The term "net operating loss," for the purposes of this  
270 paragraph, shall be the excess of the deductions allowed over the  
271 gross income; provided, however, the following deductions shall  
272 not be allowed in computing same:

273 (i) No net operating loss deduction shall be  
274 allowed.

275 (ii) No personal exemption deduction shall be  
276 allowed.

277 (iii) Allowable deductions which are not  
278 attributable to taxpayer's trade or business shall be allowed only  
279 to the extent of the amount of gross income not derived from such  
280 trade or business.

281 Any taxpayer entitled to a carryback period as provided by  
282 this paragraph may elect to relinquish the entire carryback period  
283 with respect to a net operating loss for any taxable year ending  
284 after December 31, 1991. The election shall be made in the manner  
285 prescribed by the State Tax Commission and shall be made by the  
286 due date, including extensions of time, for filing the taxpayer's  
287 return for the taxable year of the net operating loss for which  
288 the election is to be in effect. The election, once made for any  
289 taxable year, shall be irrevocable for that taxable year.

290 (m) **Amortization of pollution or environmental control**  
291 **facilities.** Allowance of deduction. Every taxpayer, at his  
292 election, shall be entitled to a deduction for pollution or  
293 environmental control facilities to the same extent as that

294 allowed under the Internal Revenue Code and the rules,  
295 regulations, rulings and determinations promulgated thereunder.

296           (n) **Dividend distributions - real estate investment**  
297 **trusts.** "Real estate investment trust" (hereinafter referred to  
298 as REIT) shall have the meaning ascribed to such term in Section  
299 856 of the federal Internal Revenue Code of 1986, as amended. A  
300 REIT is allowed a dividend distributed deduction if the dividend  
301 distributions meet the requirements of Section 857 or are  
302 otherwise deductible under Section 858 or 860, federal Internal  
303 Revenue Code of 1986, as amended. In addition:

304           (i) A dividend distributed deduction shall only be  
305 allowed for dividends paid by a publicly traded REIT. A qualified  
306 REIT subsidiary shall be allowed a dividend distributed deduction  
307 if its owner is a publicly traded REIT.

308           (ii) Income generated from real estate contributed  
309 or sold to a REIT by a shareholder or related party shall not give  
310 rise to a dividend distributed deduction, unless the shareholder  
311 or related party would have received the dividend distributed  
312 deduction under this chapter.

313           (iii) A holding corporation receiving a dividend  
314 from a REIT shall not be allowed the deduction in Section  
315 27-7-15(4)(t).

316           (iv) Any REIT not allowed the dividend distributed  
317 deduction in the federal Internal Revenue Code of 1986, as  
318 amended, shall not be allowed a dividend distributed deduction  
319 under this chapter.

320           The commissioner is authorized to promulgate rules and  
321 regulations consistent with the provisions in Section 269 of the  
322 federal Internal Revenue Code of 1986, as amended, so as to  
323 prevent the evasion or avoidance of state income tax.

324           (o) **Contributions to college savings trust fund**  
325 **accounts.** Contributions or payments to a Mississippi Affordable  
326 College Savings Program account are deductible as provided under

327 Section 37-155-113. Payments made under a prepaid tuition  
328 contract entered into under the Mississippi Prepaid Affordable  
329 College Tuition Program are deductible as provided under Section  
330 37-155-17.

331 (2) **Restrictions on the deductibility of certain intangible**  
332 **expenses and interest expenses with a related member.**

333 (a) As used in this subsection (2):

334 (i) "Intangible expenses and costs" include:

335 1. Expenses, losses and costs for, related  
336 to, or in connection directly or indirectly with the direct or  
337 indirect acquisition, use, maintenance or management, ownership,  
338 sale, exchange or any other disposition of intangible property to  
339 the extent such amounts are allowed as deductions or costs in  
340 determining taxable income under this chapter;

341 2. Expenses or losses related to or incurred  
342 in connection directly or indirectly with factoring transactions  
343 or discounting transactions;

344 3. Royalty, patent, technical and copyright  
345 fees;

346 4. Licensing fees; and

347 5. Other similar expenses and costs.

348 (ii) "Intangible property" means patents, patent  
349 applications, trade names, trademarks, service marks, copyrights  
350 and similar types of intangible assets.

351 (iii) "Interest expenses and cost" means amounts  
352 directly or indirectly allowed as deductions for purposes of  
353 determining taxable income under this chapter to the extent such  
354 interest expenses and costs are directly or indirectly for,  
355 related to, or in connection with the direct or indirect  
356 acquisition, maintenance, management, ownership, sale, exchange or  
357 disposition of intangible property.

358 (iv) "Related member" means an entity or person  
359 that, with respect to the taxpayer during all or any portion of

360 the taxable year, is a related entity, a component member as  
361 defined in the Internal Revenue Code, or is an entity or a person  
362 to or from whom there is attribution of stock ownership in  
363 accordance with Section 1563(e) of the Internal Revenue Code.

364 (v) "Related entity" means:

365 1. A stockholder who is an individual or a  
366 member of the stockholder's family, as defined in regulations  
367 prescribed by the commissioner, if the stockholder and the members  
368 of the stockholder's family own, directly, indirectly,  
369 beneficially or constructively, in the aggregate, at least fifty  
370 percent (50%) of the value of the taxpayer's outstanding stock;

371 2. A stockholder, or a stockholder's  
372 partnership, limited liability company, estate, trust or  
373 corporation, if the stockholder and the stockholder's  
374 partnerships, limited liability companies, estates, trusts and  
375 corporations own, directly, indirectly, beneficially or  
376 constructively, in the aggregate, at least fifty percent (50%) of  
377 the value of the taxpayer's outstanding stock;

378 3. A corporation, or a party related to the  
379 corporation in a manner that would require an attribution of stock  
380 from the corporation to the party or from the party to the  
381 corporation, if the taxpayer owns, directly, indirectly,  
382 beneficially or constructively, at least fifty percent (50%) of  
383 the value of the corporation's outstanding stock under regulation  
384 prescribed by the commissioner;

385 4. Any entity or person which would be a  
386 related member under this section if the taxpayer were considered  
387 a corporation for purposes of this section.

388 (b) In computing net income, a taxpayer shall add back  
389 otherwise deductible interest expenses and costs and intangible  
390 expenses and costs directly or indirectly paid, accrued to or  
391 incurred, in connection directly or indirectly with one or more  
392 direct or indirect transactions with one or more related members.

393 (c) The adjustments required by this subsection shall  
394 not apply to such portion of interest expenses and costs and  
395 intangible expenses and costs that the taxpayer can establish  
396 meets one (1) of the following:

397 (i) The related member directly or indirectly  
398 paid, accrued or incurred such portion to a person during the same  
399 income year who is not a related member; or

400 (ii) The transaction giving rise to the interest  
401 expenses and costs or intangible expenses and costs between the  
402 taxpayer and related member was done primarily for a valid  
403 business purpose other than the avoidance of taxes, and the  
404 related member is not primarily engaged in the acquisition, use,  
405 maintenance or management, ownership, sale, exchange or any other  
406 disposition of intangible property.

407 (d) Nothing in this subsection shall require a taxpayer  
408 to add to its net income more than once any amount of interest  
409 expenses and costs or intangible expenses and costs that the  
410 taxpayer pays, accrues or incurs to a related member.

411 (e) The commissioner may prescribe such regulations as  
412 necessary or appropriate to carry out the purposes of this  
413 subsection, including, but not limited to, clarifying definitions  
414 of terms, rules of stock attribution, factoring and discount  
415 transactions.

416 (3) **Individual nonbusiness deductions.**

417 (a) The amount allowable for individual nonbusiness  
418 itemized deductions for federal income tax purposes where the  
419 individual is eligible to elect, for the taxable year, to itemize  
420 deductions on his federal return except the following:

421 (i) The deduction for state income taxes paid;

422 (ii) The deduction for gaming losses from gaming  
423 establishments;

424 (iii) The deduction for taxes collected by  
425 licensed gaming establishments pursuant to Section 27-7-901;

426 (iv) The deduction for taxes collected by gaming  
427 establishments pursuant to Section 27-7-903.

428 (b) In lieu of the individual nonbusiness itemized  
429 deductions authorized in paragraph (a), for all purposes other  
430 than ordinary and necessary expenses paid or incurred during the  
431 taxable year in carrying on any trade or business, an optional  
432 standard deduction of:

433 (i) Three Thousand Four Hundred Dollars  
434 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
435 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
436 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
437 in the case of married individuals filing a joint or combined  
438 return;

439 (ii) One Thousand Seven Hundred Dollars  
440 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
441 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
442 Three Hundred Dollars (\$2,300.00) for each calendar year  
443 thereafter in the case of married individuals filing separate  
444 returns;

445 (iii) Three Thousand Four Hundred Dollars  
446 (\$3,400.00) in the case of a head of family; or

447 (iv) Two Thousand Three Hundred Dollars  
448 (\$2,300.00) in the case of an individual who is not married.

449 In the case of a husband and wife living together, having  
450 separate incomes, and filing combined returns, the standard  
451 deduction authorized may be divided in any manner they choose. In  
452 the case of separate returns by a husband and wife, the standard  
453 deduction shall not be allowed to either if the taxable income of  
454 one of the spouses is determined without regard to the standard  
455 deduction.

456 (c) A nonresident individual shall be allowed the same  
457 individual nonbusiness deductions as are authorized for resident  
458 individuals in paragraph (a) or (b) of this subsection; however,

459 the nonresident individual is entitled only to that proportion of  
460 the individual nonbusiness deductions as his net income from  
461 sources within the State of Mississippi bears to his total or  
462 entire net income from all sources.

463 (4) Nothing in this section shall permit the same item to be  
464 deducted more than once, either in fact or in effect.

465 **SECTION 5.** Section 27-7-39, Mississippi Code of 1972, is  
466 amended as follows:

467 27-7-39. Every individual, partnership, corporation,  
468 joint-stock company or association or insurance company, being a  
469 resident or having a place of business in this state, members of  
470 partnerships or employees in whatever capacity acting, including  
471 lessees and mortgagors of real and personal property, fiduciaries,  
472 employers and all officers and employees of the state, or any  
473 political subdivision of the state, having the control, receipt,  
474 custody, disposal or payment of salaries, wages or commissions in  
475 excess of the exemption of the recipient, and of interest, rent,  
476 premiums, annuities, compensations, remunerations, emoluments or  
477 other fixed or determinable annual or periodical gains, profits  
478 and income, paid or payable during any year to any taxpayer, shall  
479 make complete returns thereof under oath to the commissioner,  
480 under such regulations and conditions, in such form and manner and  
481 to such extent as may be prescribed by the commissioner \* \* \*;  
482 and, unless such payments are so reported, the commissioner may  
483 disallow such payments as deductions for credits in computing the  
484 tax of the payer. An exempt organization not subject to tax under  
485 the provisions of this article which fails to file the returns  
486 required by this section shall be notified of its delinquency and  
487 if such returns are not filed and the delinquency persists, the  
488 exemption from taxation enjoyed by the organization shall be  
489 forfeited.

490 **SECTION 6.** Section 27-7-81, Mississippi Code of 1972, is  
491 amended as follows:

492           27-7-81. The commissioner \* \* \* may from time to time make  
493 such rules and regulations, not inconsistent with this article, as  
494 he may deem necessary to enforce its provisions.

495           **SECTION 7.** Section 27-7-343, Mississippi Code of 1972, is  
496 amended as follows:

497           27-7-343. (1) The commissioner \* \* \* may, from time to  
498 time, make such rules and regulations, not inconsistent with this  
499 article, as he may deem necessary to enforce its provisions.

500           (2) The commissioner is herewith authorized to promulgate  
501 such rules and regulations, prescribe such forms, purchase such  
502 equipment and supplies, employ personnel, and to do such other  
503 acts as he shall deem necessary in order that the withholding  
504 system herein established may be effectively initiated on January  
505 1, 1969.

506           **SECTION 8.** This act shall take effect and be in force from  
507 and after July 1, 2005.