

By: Representatives Rotenberry, Gunn,  
Sullivan

To: Ways and Means

HOUSE BILL NO. 545

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT AMOUNTS RECEIVED BY A MISSIONARY LIVING ABROAD WHICH  
3 MAY BE EXCLUDED FROM INCOME FOR FEDERAL INCOME TAX PURPOSES SHALL  
4 BE EXCLUDED FROM GROSS INCOME FOR STATE INCOME TAX PURPOSES; AND  
5 FOR RELATED PURPOSES.

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

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

9 27-7-15. (1) For the purposes of this article, except as  
10 otherwise provided, the term "gross income" means and includes the  
11 income of a taxpayer derived from salaries, wages, fees or  
12 compensation for service, of whatever kind and in whatever form  
13 paid, including income from governmental agencies and subdivisions  
14 thereof; or from professions, vocations, trades, businesses,  
15 commerce or sales, or renting or dealing in property, or  
16 reacquired property; also from annuities, interest, rents,  
17 dividends, securities, insurance premiums, reinsurance premiums,  
18 considerations for supplemental insurance contracts, or the  
19 transaction of any business carried on for gain or profit, or  
20 gains, or profits, and income derived from any source whatever and  
21 in whatever form paid. The amount of all such items of income  
22 shall be included in the gross income for the taxable year in  
23 which received by the taxpayer. The amount by which an eligible  
24 employee's salary is reduced pursuant to a salary reduction  
25 agreement authorized under Section 25-17-5 shall be excluded from  
26 the term "gross income" within the meaning of this article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

175 (m) Compensation not to exceed the aggregate sum of  
176 Five Thousand Dollars (\$5,000.00) for any taxable year through the  
177 2005 taxable year, and not to exceed the aggregate sum of Fifteen  
178 Thousand Dollars (\$15,000.00) for any taxable year thereafter,  
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 maximum enlisted amount  
185 received for active service as a commissioned officer in the Armed  
186 Forces of the United States for any month during any part of which  
187 such members of the Armed Forces (i) served in a combat zone as  
188 designated by Executive Order of the President of the United  
189 States or a qualified hazardous duty area as defined by federal  
190 law, or both; or (ii) was hospitalized as a result of wounds,  
191 disease or injury incurred while serving in such combat zone. For

192 the purposes of this paragraph (n), the term "maximum enlisted  
193 amount" means and has the same definition as that term has in 26  
194 USCS 112.

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) Interest, dividends, gains or income of any kind on  
249 any account in a qualified tuition program and amounts received as  
250 distributions under a qualified tuition program shall be treated  
251 in the same manner as provided under the United States Internal  
252 Revenue Code, as amended. For the purposes of this paragraph (z),  
253 the term "qualified tuition program" means and has the same  
254 definition as that term has in 26 USCS 529.

255           (aa) The amount deposited in a health savings account,  
256 and any interest accrued thereon, that is a part of a health  
257 savings account program as specified in the Health Savings



258 Accounts Act created in Sections 83-62-1 through 83-62-9; however,  
259 any amount withdrawn from such account for purposes other than  
260 paying qualified medical expenses or to procure health coverage  
261 shall be included in gross income, except as otherwise provided by  
262 Sections 83-62-7 and 83-62-9.

263 (bb) Amounts received as qualified disaster relief  
264 payments shall be treated in the same manner as provided under the  
265 United States Internal Revenue Code, as amended.

266 (cc) Amounts received as a "qualified Hurricane Katrina  
267 distribution" as defined in the United States Internal Revenue  
268 Code, as amended.

269 (dd) Amounts received by a missionary living abroad  
270 which may be excluded from income for federal income tax purposes.

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

272 (a) **Members of the Armed Forces.** Gross income does not  
273 include compensation received for active service as a member of  
274 the Armed Forces of the United States for any month during any  
275 part of which such member is in a missing status, as defined in  
276 paragraph (d) of this subsection, during the Vietnam Conflict as a  
277 result of such conflict.

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

282 (c) **Period of conflict.** For the purpose of this  
283 subsection, the Vietnam Conflict began February 28, 1961, and ends  
284 on the date designated by the President by Executive Order as the  
285 date of the termination of combatant activities in Vietnam. For  
286 the purpose of this subsection, an individual is in a missing  
287 status as a result of the Vietnam Conflict if immediately before  
288 such status began he was performing service in Vietnam or was  
289 performing service in Southeast Asia in direct support of military  
290 operations in Vietnam. "Southeast Asia," as used in this

291 paragraph, is defined to include Cambodia, Laos, Thailand and  
292 waters adjacent thereto.

293 (d) "Missing status" means the status of an employee or  
294 member of the Armed Forces who is in active service and is  
295 officially carried or determined to be absent in a status of (i)  
296 missing; (ii) missing in action; (iii) interned in a foreign  
297 country; (iv) captured, beleaguered or besieged by a hostile  
298 force; or (v) detained in a foreign country against his will; but  
299 does not include the status of an employee or member of the Armed  
300 Forces for a period during which he is officially determined to be  
301 absent from his post of duty without authority.

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

305 (f) "Employee" means one who is a citizen or national  
306 of the United States or an alien admitted to the United States for  
307 permanent residence and is a resident of the State of Mississippi  
308 and is employed in or under a federal executive agency or  
309 department of the Armed Forces.

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

314 (h) If refund or credit of any overpayment of tax for  
315 any taxable year resulting from the application of subsection (5)  
316 of this section is prevented by the operation of any law or rule  
317 of law, such refund or credit of such overpayment of tax may,  
318 nevertheless, be made or allowed if claim therefor is filed with  
319 the State Tax Commission within three (3) years after the date of  
320 the enactment of this subsection.

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

323           (6) A shareholder of an S corporation, as defined in Section  
324 27-8-3(1)(g), shall take into account the income, loss, deduction  
325 or credit of the S corporation only to the extent provided in  
326 Section 27-8-7(2).

327           **SECTION 2.** Nothing in this act shall affect or defeat any  
328 claim, assessment, appeal, suit, right or cause of action for  
329 taxes due or accrued under the income tax laws before the date on  
330 which this act becomes effective, whether such claims,  
331 assessments, appeals, suits or actions have been begun before the  
332 date on which this act becomes effective or are begun thereafter;  
333 and the provisions of the income tax laws are expressly continued  
334 in full force, effect and operation for the purpose of the  
335 assessment, collection and enrollment of liens for any taxes due  
336 or accrued and the execution of any warrant under such laws before  
337 the date on which this act becomes effective, and for the  
338 imposition of any penalties, forfeitures or claims for failure to  
339 comply with such laws.

340           **SECTION 3.** This act shall take effect and be in force from  
341 and after January 1, 2007.