

By: Representatives Zuber, Palazzo, Guice

To: Ways and Means

## HOUSE BILL NO. 1563

1 AN ACT TO AMEND SECTION 27-7-20, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT NET CASUALTY LOSS DEDUCTIONS MAY BE CARRIED BACK MORE  
3 THAN THREE YEARS IF OTHERWISE PROVIDED UNDER THE INTERNAL REVENUE  
4 CODE; TO AMEND SECTION 27-7-49, MISSISSIPPI CODE OF 1972, TO  
5 PROVIDE THAT THE THREE-YEAR EXAMINATION PERIOD FOR STATE INCOME  
6 TAX RETURNS SHALL NOT APPLY WHERE THE REPORTABLE TAXABLE INCOME OF  
7 A TAXPAYER HAS BEEN DECREASED BY THE CARRYBACK OF A NET CASUALTY  
8 LOSS DEDUCTION OR NET OPERATING LOSS DEDUCTION INsofar AS THE  
9 STATE INCOME TAX LIABILITY IS AFFECTED BY THE CARRYBACK OF THE  
10 APPLICABLE DEDUCTION; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 27-7-20, Mississippi Code of 1972, is  
13 amended as follows:

14 27-7-20. Casualty losses of individuals shall be computed  
15 and allowed in accordance with the provisions of the Internal  
16 Revenue Code, rules, regulations and revenue procedures relating  
17 to casualty and theft losses and disaster losses not in direct  
18 conflict with the provisions of the Mississippi Income Tax Law.

19 The State Tax Commission shall apply a special rule with  
20 respect to any loss attributable to a disaster occurring in an  
21 area subsequently determined by the President of the United States  
22 to warrant assistance by the federal government under the Disaster  
23 Relief Act of 1974. In lieu of the net operating loss carryover  
24 provision, a "net casualty loss" deduction may result when  
25 itemized deductions, including the original casualty loss, exceed  
26 gross income. The "net casualty loss" shall be computed with the  
27 following modifications:

28 (a) No other net casualty loss deduction shall be  
29 allowed.

30 (b) No net operating loss deduction shall be allowed.

31 (c) No deduction for personal and additional exemptions  
32 shall be allowed.

33 (d) Allowable deductions which are not attributable to  
34 a taxpayer's trade or business shall be allowed only to the extent  
35 of the amount of the gross income not derived from such trade or  
36 business.

37 The "net casualty loss" is allowed as a deduction from gross  
38 income and may be carried back to each of the three (3) years  
39 preceding the tax year in which the original casualty loss is  
40 claimed or as otherwise provided under the Internal Revenue Code.  
41 If the net casualty loss deduction is not exhausted within the  
42 three (3) preceding years or as otherwise provided under the  
43 Internal Revenue Code, any net casualty loss remaining shall be  
44 carried over to each of the seven (7) years following the tax year  
45 in which the original casualty loss is claimed. In determining  
46 the amount of any net casualty loss carryback or carryover to any  
47 tax year, the necessary computations involving any other tax year  
48 shall be made under the law applicable to such other tax year.

49 **SECTION 2.** Section 27-7-49, Mississippi Code of 1972, is  
50 amended as follows:

51 27-7-49. (1) Returns shall be examined by the commissioner  
52 or his duly authorized agents within three (3) years from the due  
53 date or the date the return was filed, whichever is later, and no  
54 determination of a tax overpayment or deficiency shall be made by  
55 the commissioner, and no suit shall be filed with respect to  
56 income within the period covered by such return, after the  
57 expiration of said three-year period, except as hereinafter  
58 provided.

59 (2) When an examination of a return made under this article  
60 has been commenced, and the taxpayer notified thereof, either by  
61 certified mail or personal delivery by an agent of the  
62 commissioner, within the three-year examination period provided in  
63 subsection (1) of this section, the determination of the correct

64 tax liability may be made by the commissioner after the expiration  
65 of said three-year examination period, provided that said  
66 determination shall be made with reasonable promptness and  
67 diligence.

68 (3) Where the reported taxable income of a taxpayer has been  
69 increased or decreased by the Internal Revenue Service, the  
70 three-year examination period provided in subsection (1) of this  
71 section shall not be applicable, insofar as the Mississippi income  
72 tax liability is affected by the specific changes made by said  
73 Internal Revenue Service. However, no additional assessment or no  
74 refund shall be made under the provisions of this article after  
75 three (3) years from the date the Internal Revenue Service  
76 disposes of the tax liability in question.

77 (4) The three-year examination period provided in subsection  
78 (1) of this section shall not be applicable in the case of a false  
79 or fraudulent return with intent to evade tax.

80 (5) A taxpayer may apply to the commissioner for revision of  
81 any return filed under this article at any time within three (3)  
82 years from the due date, or if an extension of time to file was  
83 granted, three (3) years from the date the return was filed. If  
84 the return is not filed by the time authorized by the extension,  
85 then the three (3) years begin to run from the final day of the  
86 extension period.

87 (6) Where the reportable taxable income of a taxpayer has  
88 been decreased by the carryback of a net casualty loss deduction  
89 under Section 27-7-20 or the carryback of a net operating loss  
90 deduction under Section 27-7-17, the three-year examination period  
91 provided under subsection (1) of this section shall not be  
92 applicable insofar as the Mississippi income tax liability is  
93 affected by the carryback of the net casualty loss deduction or  
94 the carryback of the net operating loss deduction.

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