

By: Representatives Smith, Paden, Hines,
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To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1601

1 AN ACT TO AUTHORIZE TAXPAYERS TO ESTABLISH FIRST-TIME HOME
2 BUYER SAVINGS ACCOUNTS; TO DEFINE CERTAIN TERMS; TO PROVIDE THAT
3 THE AMOUNTS CONTRIBUTED TO A FIRST-TIME HOME BUYER SAVINGS
4 ACCOUNT, INTEREST AND OTHER INCOME EARNED ON AN ACCOUNT AND
5 DISTRIBUTIONS FROM SUCH AN ACCOUNT THAT ARE USED TO PAY ELIGIBLE
6 COSTS RELATED TO THE PURCHASE OF A SINGLE-FAMILY RESIDENCE SHALL
7 BE EXCLUDED FROM THE GROSS INCOME OF THE ACCOUNT HOLDER UNDER THE
8 STATE INCOME TAX LAW; TO AMEND SECTION 27-7-15, MISSISSIPPI CODE
9 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** (1) As used in Sections 1 and 2 of this act, the
12 following words shall have the meanings ascribed herein unless the
13 context clearly requires otherwise:

14 (a) "Account holder" means an individual who
15 establishes, individually or jointly with one or more other
16 individuals, an account with a financial institution for which the
17 account holder claims a first-time home buyer savings account
18 status on his Mississippi income tax return.

19 (b) "Allowable closing costs" means a disbursement
20 listed on a settlement statement for the purchase of a
21 single-family residence in this state by a qualified beneficiary.

22 (c) "Eligible costs" means the down payment and
23 allowable closing costs for the purchase of a single-family
24 residence in this state by a qualified beneficiary.

25 (d) "Financial institution" means any bank, trust
26 company, savings institution, consumer finance company, credit
27 union, safe deposit company, money market mutual fund, or similar
28 entity authorized to do business in this state.

29 (e) "First-time home buyer savings account" or
30 "account" means an account with a financial institution for which
31 the account holder claims first-time home buyer savings account
32 status on his Mississippi income tax return for taxable year 2018
33 or any taxable year thereafter, pursuant to Sections 1 and 2 of
34 this act for the purpose of paying or reimbursing eligible costs
35 for the purchase of a single-family residence in this state by a
36 qualified beneficiary.

37 (f) "Qualified beneficiary" means an individual or
38 individuals who reside in this state at the time of settlement on
39 the purchase of a single-family residence in this state and:

40 (i) Have never owned or purchased under contract
41 for deed, either individually or jointly, a single-family
42 residence in this state or outside of this state;

43 (ii) Are designated as the beneficiary of an
44 account designated by the account holder as a first-time home
45 buyer savings account; and

46 (iii) May apply monies or funds held in such
47 account for eligible costs. A qualified beneficiary may use the
48 funds from such account for eligible costs regardless of whether
49 such qualified beneficiary purchases the single-family residence
50 as sole owner or jointly with another individual.

51 (g) "Settlement statement" means the statement of
52 receipts and disbursements for a transaction related to real
53 estate, including a statement prescribed under the Real Estate
54 Settlement Procedures Act of 1974 (RESPA), 12 USCS Section 2601 et
55 seq., as amended, and the regulations thereunder, or an executed
56 sales agreement for the purchase of a manufactured home being
57 conveyed as personal property.

58 (h) "Single-family residence" means a single-family
59 residence owned and occupied by a qualified beneficiary, and also
60 includes a manufactured home, modular home, mobile home,
61 condominium unit, or cooperative.

62 (i) "State" means the State of Mississippi.

63 **SECTION 2.** (1) (a) An account holder shall be responsible
64 for the use or application of monies or funds in an account for
65 which the account holder claims first-time home buyer savings
66 account status.

67 (b) An account holder shall:

68 (i) Not use monies or funds held in an account to
69 pay expenses of administering the account, except that a service
70 fee may be deducted from the account by a financial institution;

71 (ii) Maintain documentation of the segregation of
72 monies or funds in separate accounts and documentation of eligible
73 costs for the purchase of a single-family residence in this state
74 (such documentation may include the settlement statement); and

75 (iii) File with the account holder's Mississippi
76 income tax return forms developed by the Department of Revenue
77 regarding treatment of the account as a first-time home buyer
78 savings account under Sections 1 and 2 of this act, along with the
79 federal Form 1099 issued by the financial institution for such
80 account.

88 (b) (i) The amount of contributions made by an account
89 holder in any tax year to a first-time home buyer savings account
90 to be excluded from gross income as provided under Section 27-7-15
91 shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00) for
92 any account holder who files an individual return.

93 (ii) The amount of contributions made by an
94 account holder in any tax year to a first-time home buyer savings
95 account to be excluded from gross income as provided under Section

96 27-7-15 shall not exceed Five Thousand Dollars (\$5,000.00) for any
97 married couple who are joint account holders and file a joint
98 return. Only cash and marketable securities may be contributed to
99 an account.

100 (c) Upon being furnished proof of the death of an
101 account holder, a financial institution shall distribute the
102 principal and accumulated interest or other income of the account
103 in accordance with the terms of the contract governing the
104 account.

105 (3) If monies or funds are withdrawn from an account for any
106 purpose other than the payment of eligible costs by or on behalf
107 of a qualified beneficiary, then such monies or funds withdrawn
108 from an account shall be added to gross income as provided in
109 Section 27-7-15. In addition, there shall be imposed a penalty
110 calculated using the federal Form 1099 showing the amount of
111 income exempted from state income tax and assessing a ten percent
112 (10%) penalty on the amount of such exempted income. However, the
113 penalty shall not apply to the extent of monies or funds withdrawn
114 that were (a) withdrawn by reason of the qualified beneficiary's
115 death or disability, (b) a disbursement of assets of the account
116 pursuant to a filing for protection under the United States
117 Bankruptcy Code, 11 USCS Sections 101 through 1330, or (c)
118 transferred from an account established under Sections 1 and 2 of
119 this act into another account established under Sections 1 and 2
120 of this act for the benefit of another qualified beneficiary.



121 (4) (a) Financial institutions shall not be required to:

122 (i) Designate an account as a first-time home
123 buyer savings account, or designate the beneficiaries of such
124 accounts, in the financial institutions' account contracts or
125 systems or in any other way;

126 (ii) Track the use of funds withdrawn from such
127 accounts;

128 (iii) Allocate funds in such accounts among joint
129 account owners or multiple beneficiaries; or

130 (iv) Report any of the information described in
131 (i), (ii) or (iii) to the Department of Revenue or other
132 governmental agency.

133 (b) In addition, financial institutions shall not be
134 responsible for or liable for:

135 (i) Determining or ensuring that an account
136 satisfies the requirements to be a first-time home buyer savings
137 account;

138 (ii) Determining or ensuring that costs are
139 eligible costs;

140 (iii) Reporting or remitting taxes or penalties
141 for such accounts; or

142 (iv) Ensuring that an account holder meets his or
143 her obligations under this section in any way.

144 (c) Financial institutions shall be held harmless by
145 the Department of Revenue for any actions taken with respect to a



146 first-time home buyer savings account, and the account holder
147 shall indemnify and hold harmless his or her financial institution
148 and its successors and assigns from and against claims, damages,
149 losses, penalties and expenses, including, but not limited to,
150 reasonable attorney's fees arising out of or resulting from their
151 first-time home buyers savings account.

152 (5) The Department of Revenue shall have all powers
153 necessary to implement and administer Sections 1 and 2 of this
154 act, and the department shall promulgate rules and regulations, in
155 accordance with the Mississippi Administrative Procedures Law,
156 necessary for the implementation of this section. However, such
157 guidelines shall not apply to, or impose administrative,
158 reporting, or other obligations or requirements on, financial
159 institutions-related accounts for which first-time home buyer
160 savings account status is claimed by the account holder.

161 (6) Any person who knowingly prepares or causes to be
162 prepared a false claim, receipt, statement or billing to avoid or
163 evade taxes or penalties upon the withdrawal of money or funds
164 from an account is guilty of a misdemeanor, and upon conviction,
165 shall be punished as provided in Section 99-19-31.

166 **SECTION 3.** Section 27-7-15, Mississippi Code of 1972, is
167 amended as follows:

168 27-7-15. (1) For the purposes of this article, except as
169 otherwise provided, the term "gross income" means and includes the
170 income of a taxpayer derived from salaries, wages, fees or



171 compensation for service, of whatever kind and in whatever form
172 paid, including income from governmental agencies and subdivisions
173 thereof; or from professions, vocations, trades, businesses,
174 commerce or sales, or renting or dealing in property, or
175 reacquired property; also from annuities, interest, rents,
176 dividends, securities, insurance premiums, reinsurance premiums,
177 considerations for supplemental insurance contracts, or the
178 transaction of any business carried on for gain or profit, or
179 gains, or profits, and income derived from any source whatever and
180 in whatever form paid. The amount of all such items of income
181 shall be included in the gross income for the taxable year in
182 which received by the taxpayer. The amount by which an eligible
183 employee's salary is reduced pursuant to a salary reduction
184 agreement authorized under Section 25-17-5 shall be excluded from
185 the term "gross income" within the meaning of this article.

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

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

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

194 (i) Prior to January 1, 2001, federal rules,
195 regulations and revenue procedures shall be followed with respect



196 to installment sales except they shall be applied and administered
197 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
198 106th Congress, had not been enacted. This provision will
199 generally affect taxpayers, reporting on the accrual method of
200 accounting, entering into installment note agreements on or after
201 December 17, 1999. Any gain or profit resulting from the casual
202 sale of property will be recognized in the year of sale.

203 (ii) From and after January 1, 2001, federal
204 rules, regulations and revenue procedures shall be followed with
205 respect to installment sales except as provided in this
206 subparagraph (ii). Gain or profit from the casual sale of
207 property shall be recognized in the year of sale. When a taxpayer
208 recognizes gain on the casual sale of property in which the gain
209 is deferred for federal income tax purposes, a taxpayer may elect
210 to defer the payment of tax resulting from the gain as allowed and
211 to the extent provided under regulations prescribed by the
212 commissioner. If the payment of the tax is made on a deferred
213 basis, the tax shall be computed based on the applicable rate for
214 the income reported in the year the payment is made. Except as
215 otherwise provided in subparagraph (iii) of this paragraph (b),
216 deferring the payment of the tax shall not affect the liability
217 for the tax. If at any time the installment note is sold,
218 contributed, transferred or disposed of in any manner and for any
219 purpose by the original note holder, or the original note holder
220 is merged, liquidated, dissolved or withdrawn from this state,



221 then all deferred tax payments under this section shall
222 immediately become due and payable.

223 (iii) If the selling price of the property is
224 reduced by any alteration in the terms of an installment note,
225 including default by the purchaser, the gain to be recognized is
226 recomputed based on the adjusted selling price in the same manner
227 as for federal income tax purposes. The tax on this amount, less
228 the previously paid tax on the recognized gain, is payable over
229 the period of the remaining installments. If the tax on the
230 previously recognized gain has been paid in full to this state,
231 the return on which the payment was made may be amended for this
232 purpose only. The statute of limitations in Section 27-7-49 shall
233 not bar an amended return for this purpose.

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

237 (d) **Affiliated companies or persons.** As regards sales,
238 exchanges or payments for services from one to another of
239 affiliated companies or persons or under other circumstances where
240 the relation between the buyer and seller is such that gross
241 proceeds from the sale or the value of the exchange or the payment
242 for services are not indicative of the true value of the subject
243 matter of the sale, exchange or payment for services, the
244 commissioner shall prescribe uniform and equitable rules for
245 determining the true value of the gross income, gross sales,



246 exchanges or payment for services, or require consolidated returns
247 of affiliates.

248 (e) **Alimony and separate maintenance payments.** The
249 federal rules, regulations and revenue procedures in determining
250 the deductibility and taxability of alimony payments shall be
251 followed in this state.

252 (f) **Reimbursement for expenses of moving.** There shall
253 be included in gross income (as compensation for services) any
254 amount received or accrued, directly or indirectly, by an
255 individual as a payment for or reimbursement of expenses of moving
256 from one (1) residence to another residence which is attributable
257 to employment or self-employment.

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

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

263 (a) The proceeds of life insurance policies and
264 contracts paid upon the death of the insured. However, the income
265 from the proceeds of such policies or contracts shall be included
266 in the gross income.

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



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

274 (d) Interest upon the obligations of the United States
275 or its possessions, or securities issued under the provisions of
276 the Federal Farm Loan Act of 1916, or bonds issued by the War
277 Finance Corporation, or obligations of the State of Mississippi or
278 political subdivisions thereof.

279 (e) The amounts received through accident or health
280 insurance as compensation for personal injuries or sickness, plus
281 the amount of any damages received for such injuries or such
282 sickness or injuries, or through the War Risk Insurance Act, or
283 any law for the benefit or relief of injured or disabled members
284 of the military or naval forces of the United States.

285 (f) Income received by any religious denomination or by
286 any institution or trust for moral or mental improvements,
287 religious, Bible, tract, charitable, benevolent, fraternal,
288 missionary, hospital, infirmary, educational, scientific,
289 literary, library, patriotic, historical or cemetery purposes or
290 for two (2) or more of such purposes, if such income be used
291 exclusively for carrying out one or more of such purposes.

292 (g) Income received by a domestic corporation which is
293 "taxable in another state" as this term is defined in this
294 article, derived from business activity conducted outside this
295 state. Domestic corporations taxable both within and without the



296 state shall determine Mississippi income on the same basis as
297 provided for foreign corporations under the provisions of this
298 article.

299 (h) In case of insurance companies, there shall be
300 excluded from gross income such portion of actual premiums
301 received from an individual policyholder as is paid back or
302 credited to or treated as an abatement of premiums of such
303 policyholder within the taxable year.

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

308 (j) Amounts paid by the United States to a person as
309 added compensation for hazardous duty pay as a member of the Armed
310 Forces of the United States in a combat zone designated by
311 Executive Order of the President of the United States.

312 (k) Amounts received as retirement allowances,
313 pensions, annuities or optional retirement allowances paid under
314 the federal Social Security Act, the Railroad Retirement Act, the
315 Federal Civil Service Retirement Act, or any other retirement
316 system of the United States government, retirement allowances paid
317 under the Mississippi Public Employees' Retirement System,
318 Mississippi Highway Safety Patrol Retirement System or any other
319 retirement system of the State of Mississippi or any political
320 subdivision thereof. The exemption allowed under this paragraph



321 (k) shall be available to the spouse or other beneficiary at the
322 death of the primary retiree.

323 (l) Amounts received as retirement allowances,
324 pensions, annuities or optional retirement allowances paid by any
325 public or governmental retirement system not designated in
326 paragraph (k) or any private retirement system or plan of which
327 the recipient was a member at any time during the period of his
328 employment. Amounts received as a distribution under a Roth
329 Individual Retirement Account shall be treated in the same manner
330 as provided under the Internal Revenue Code of 1986, as amended.
331 The exemption allowed under this paragraph (l) shall be available
332 to the spouse or other beneficiary at the death of the primary
333 retiree.

334 (m) National Guard or Reserve Forces of the United
335 States compensation not to exceed the aggregate sum of Five
336 Thousand Dollars (\$5,000.00) for any taxable year through the 2005
337 taxable year, and not to exceed the aggregate sum of Fifteen
338 Thousand Dollars (\$15,000.00) for any taxable year thereafter.

339 (n) Compensation received for active service as a
340 member below the grade of commissioned officer and so much of the
341 compensation as does not exceed the maximum enlisted amount
342 received for active service as a commissioned officer in the Armed
343 Forces of the United States for any month during any part of which
344 such members of the Armed Forces (i) served in a combat zone as
345 designated by Executive Order of the President of the United



346 States or a qualified hazardous duty area as defined by federal
347 law, or both; or (ii) was hospitalized as a result of wounds,
348 disease or injury incurred while serving in such combat zone. For
349 the purposes of this paragraph (n), the term "maximum enlisted
350 amount" means and has the same definition as that term has in 26
351 USCS 112.

352 (o) The proceeds received from federal and state
353 forestry incentive programs.

354 (p) The amount representing the difference between the
355 increase of gross income derived from sales for export outside the
356 United States as compared to the preceding tax year wherein gross
357 income from export sales was highest, and the net increase in
358 expenses attributable to such increased exports. In the absence
359 of direct accounting, the ratio of net profits to total sales may
360 be applied to the increase in export sales. This paragraph (p)
361 shall only apply to businesses located in this state engaging in
362 the international export of Mississippi goods and services. Such
363 goods or services shall have at least fifty percent (50%) of value
364 added at a location in Mississippi.

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

368 (r) The amount deposited in a medical savings account,
369 and any interest accrued thereon, that is a part of a medical
370 savings account program as specified in the Medical Savings



371 Account Act under Sections 71-9-1 through 71-9-9; provided,
372 however, that any amount withdrawn from such account for purposes
373 other than paying eligible medical expense or to procure health
374 coverage shall be included in gross income.

375 (s) Amounts paid by the Mississippi Soil and Water
376 Conservation Commission from the Mississippi Soil and Water
377 Cost-Share Program for the installation of water quality best
378 management practices.

379 (t) Dividends received by a holding corporation, as
380 defined in Section 27-13-1, from a subsidiary corporation, as
381 defined in Section 27-13-1.

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

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

391 (w) Income resulting from transactions with a related
392 member where the related member subject to tax under this chapter
393 was required to, and did in fact, add back the expense of such
394 transactions as required by Section 27-7-17(2). Under no
395 circumstances may the exclusion from income exceed the deduction

396 add-back of the related member, nor shall the exclusion apply to
397 any income otherwise excluded under this chapter.

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

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

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

412 (aa) The amount deposited in a health savings account,
413 and any interest accrued thereon, that is a part of a health
414 savings account program as specified in the Health Savings
415 Accounts Act created in Sections 83-62-1 through 83-62-9; however,
416 any amount withdrawn from such account for purposes other than
417 paying qualified medical expenses or to procure health coverage
418 shall be included in gross income, except as otherwise provided by
419 Sections 83-62-7 and 83-62-9.

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

423 (cc) Amounts received as a "qualified Hurricane Katrina
424 distribution" as defined in the United States Internal Revenue
425 Code, as amended.

426 (dd) Amounts received by an individual which may be
427 excluded from income as foreign earned income for federal income
428 tax purposes.

429 (ee) Amounts received by a qualified individual,
430 directly or indirectly, from an employer or nonprofit housing
431 organization that are qualified housing expenses associated with
432 an employer-assisted housing program. For purposes of this
433 paragraph (ee):

434 (i) "Qualified individual" means any individual
435 whose household income does not exceed one hundred twenty percent
436 (120%) of the area median gross income (as defined by the United
437 States Department of Housing and Urban Development), adjusted for
438 household size, for the area in which the housing is located.

439 (ii) "Nonprofit housing organization" means an
440 organization that is organized as a not-for-profit organization
441 under the laws of this state or another state and has as one of
442 its purposes:



447 (iii) "Employer-assisted housing program" means a
448 separate written plan of any employer (including, without
449 limitation, tax-exempt organizations and public employers) for the
450 exclusive benefit of the employer's employees to pay qualified
451 housing expenses to assist the employer's employees in securing
452 affordable housing.

453 (iv) "Qualified housing expenses" means:

467 (ff) For the 2010 taxable year and any taxable year
468 thereafter, amounts converted in accordance with the United States
469 Internal Revenue Code, as amended, from a traditional Individual



470 Retirement Account to a Roth Individual Retirement Account. The
471 exemption allowed under this paragraph (ff) shall be available to
472 the spouse or other beneficiary at the death of the primary
473 retiree.

474 (gg) Amounts received for the performance of disaster
475 or emergency-related work as defined in Section 27-113-5.

476 (hh) The amount deposited in a catastrophe savings
477 account established under Sections 27-7-1001 through 27-7-1007,
478 interest income earned on the catastrophe savings account, and
479 distributions from the catastrophe savings account; however, any
480 amount withdrawn from a catastrophe savings account for purposes
481 other than paying qualified catastrophe expenses shall be included
482 in gross income, except as otherwise provided by Sections
483 27-7-1001 through 27-7-1007.

484 (ii) Subject to the limitations provided under Section
485 2 of this act, amounts deposited into a first-time home buyer
486 savings account and any interest or other income earned
487 attributable to an account and monies or funds withdrawn or
488 distributed from an account for the payment of eligible costs by
489 or on behalf of a qualified beneficiary; however, any monies or
490 funds withdrawn or distributed from a first-time home buyer
491 savings account for any purpose other than the payment of eligible
492 costs by or on behalf of a qualified beneficiary shall be included
493 in gross income. For the purpose of this paragraph (ii), the
494 terms "first-time home buyer savings account," "eligible costs"



495 and "qualified beneficiary" mean and have the same definitions as
496 such terms have in Section 1 of this act.

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

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

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

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

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

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

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

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

540 (h) If refund or credit of any overpayment of tax for
541 any taxable year resulting from the application of this subsection
542 (5) is prevented by the operation of any law or rule of law, such
543 refund or credit of such overpayment of tax may, nevertheless, be



544 made or allowed if claim therefor is filed with the Department of
545 Revenue within three (3) years after the date of the enactment of
546 this subsection.

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

549 (6) A shareholder of an S corporation, as defined in Section
550 27-8-3(1)(g), shall take into account the income, loss, deduction
551 or credit of the S corporation only to the extent provided in
552 Section 27-8-7(2).

553 **SECTION 4.** Sections 1 and 2 of this act shall be codified as
554 new sections in Chapter 7, Title 27, Mississippi Code of 1972.

555 **SECTION 5.** Nothing in this act shall affect or defeat any
556 claim, assessment, appeal, suit, right or cause of action for
557 taxes due or accrued under the income tax laws before the date on
558 which this act becomes effective, whether such claims,
559 assessments, appeals, suits or actions have been begun before the
560 date on which this act becomes effective or are begun thereafter;
561 and the provisions of the income tax laws are expressly continued
562 in full force, effect and operation for the purpose of the
563 assessment, collection and enrollment of liens for any taxes due
564 or accrued and the execution of any warrant under such laws before
565 the date on which this act becomes effective, and for the
566 imposition of any penalties, forfeitures or claims for failure to
567 comply with such laws.



568 **SECTION 6.** This act shall take effect and be in force from
569 and after January 1, 2017.

