

**2011**

— DEPARTMENT OF —  
**REVENUE**  
 STATE OF MISSISSIPPI



## INSTRUCTIONS

### GENERAL INFORMATION

There are some important things you can do to help speed processing of your return:

- **Use Black Ink** when preparing returns.
- **Indicating a Loss** - To indicate a loss (negative income), use brackets around the dollar amount.
- **All filers must attach a federal return filing to the state return.** Combined filers must attach the consolidated Federal Form 1120 (pages 1 – 5), Schedule M-3 and a complete Pro-Forma Federal Return. **Additional schedules and attachments should be stapled to your return.**
- **Download Forms** – Form may be downloaded by tax year and tax type from our web site located at [www.dor.ms.gov](http://www.dor.ms.gov).

### *Legislative Changes for 2011*

The following is a brief description of select legislative changes. A copy of all legislative bills is available at <http://billstatus.ls.state.ms.us/>.

**House Bill 1311:** This bill provides an income tax credit for costs and expenses incurred in the rehabilitation of certified historic structures may be refunded in lieu of the ten-year carryforward. This bill is effective January 1, 2011.

## GENERAL INSTRUCTIONS

### WHO MUST FILE

- Every corporation domesticated or qualified to do business in Mississippi must file a return even though the corporation is inactive or not otherwise engaged in business. **Such corporation will remain subject to the filing requirements until the corporation is officially dissolved or withdrawn through the Office of the Mississippi Secretary of State.**
- **Foreign corporations** engaged in business in Mississippi or having sources of income in this state who have not qualified to transact business in this state through the office of the Secretary of State are subject to the measure of the income and franchise tax levy.
- Every exempt corporate organization, as described in Miss Code Ann. § 27-7-27 or § 27-7-29 and not otherwise exempt from the income tax levy, is required to make a corporate tax filing if they have Mississippi unrelated business taxable income.
- Title insurance companies and class A burial insurance companies should use Form 83-105. Class B burial companies, writing life, accident and health, fire and casualty insurance companies should use Form 83-391.

### TIME AND PLACE FOR FILING

The Mississippi combination return of corporate income and franchise tax must be filed on or before the 15th day of the 3rd month following the close of the accounting year. If the due date falls on a Saturday, Sunday, or legal holiday, file on the next business day. A business day is any day that is not a Saturday, Sunday, or legal holiday.

The return should be mailed to:

**Department of Revenue  
 P.O. Box 23050  
 Jackson, MS 39225-3050**

Street Address:

**1577 Springridge Road  
 Raymond, MS 39154**

## FILING ELECTRONIC RETURNS

Tax preparers have the ability to file Mississippi Corporate Income & Franchise Tax Returns electronically. Please visit [www.dor.ms.gov](http://www.dor.ms.gov) for more information.

## PERIOD COVERED BY THE RETURN

Returns shall be filed on the basis of the 12-month accounting period established by the corporation. A corporation on a fiscal year basis must enter the beginning and ending dates of the taxable year in the appropriate spaces. No accounting period, other than calendar year, will be recognized, unless before its close it was definitely established as an accounting period by the taxpayer and the books of such taxpayer were kept in accordance therewith. No accounting period shall be changed without the approval of the Commissioner.

## PAYMENT OF TAX

The total tax due on the combination return must be paid by the due date, not necessarily the due date of the tax return. For franchise tax, the due date is the due date of the return; for income tax, the due date is the due date of income tax estimated payments (which must not be less than 90% of the annual income tax liability), and the balance by the due date of the tax return. Payment due dates are determined without respect to any extensions of time to file.

## PAYMENT OPTIONS

- **Pay Online** - Go to [www.dor.ms.gov](http://www.dor.ms.gov), click on **Taxpayer Access Point (TAP)** and follow the instructions for paying online. You may also view and update account information through TAP.
- **Pay By Check/Money Order** - **Make your check or money order payable to the Department of Revenue** with a payment coupon and mail both the check/money order and coupon to P.O. Box 23075, Jackson, MS 39225-3075. Write the identification number on the check or money order.
- **Pay by credit card or electronic check**  
Call 1-800-272-9829, or go to [www.officialpayments.com](http://www.officialpayments.com). There is a 2 ½ % fee for credit cards, or a \$3.00 fee for E-checks charged by Official Payments. Visa, Master Card, Discover and American Express cards are accepted. The Jurisdiction code for Mississippi is 3400.

## EXTENSION OF TIME TO FILE RETURN

Taxpayers having a tax liability who request an extension of time must remit the tax due with their Mississippi application for extension. Corporations may submit Form 83-180 on or before the due date of their returns, including remittance for any remaining tax liability, and receive an automatic extension of time to file their tax returns.

**THE AUTHORIZED EXTENSION OF TIME TO FILE DOES NOT EXTEND THE TIME FOR PAYMENT OF THE INCOME OR FRANCHISE TAX DUE. INTEREST AND PENALTY SHALL APPLY ON ANY UNDERPAYMENT OF TAX.**

If no tax liability exists on the due date of the return, the Commissioner may recognize an extension of time authorized and granted by the Internal Revenue Service for the filing of annual income tax returns.

## INTEREST AND PENALTY PROVISIONS

**Late Payment** - Interest at the rate of 1% per month from the regular due date until paid, is due on the amount of unpaid tax whenever such is not paid on the regular due date, even though an extension of time to file the return has been granted or authorized. The penalty imposed for failure to pay the tax when due is 1/2% per month based on tax not paid by the due date not to exceed 25% in the aggregate.

**Late or Non-File** - Penalties are imposed for failure to file a return when due. The penalty imposed for failure to file a return is 5% per month not to exceed 25% in the aggregate. Such failure to file a return penalty shall not be less than \$100 for income tax.

**Incomplete Returns** - A corporation that does not file a complete return or does not file a return within the prescribed time may be subject to a penalty of \$25 per required attachment or schedule up to a maximum of \$500 per return.

**To be a complete return**, a return should contain all the requisite general information, as well as, all summary tax information and the basic back up schedules. Examples of the required general information are complete name, current address, ID number, officer information and signature, and other information relating to the filing entity as requested on page 2 of Form 83-105.

**Examples of the summary tax information** are the front page of the return, the computation of net income, the franchise tax schedules, the computation of the apportionment factor (if income is apportioned), the balance sheet, non-business income schedule, the direct accounting income statement (if applicable), schedules showing the computation of any tax credit taken (such as jobs credit) and schedules showing the computation of any major item in the return.

**Examples of the basic backup schedules** are details of other additions or other deductions as requested on the computation of net income schedule, details of other additions or other deductions as requested on other statements made a part of the return, details of other assets, and details of other current liabilities and other liabilities in the balance sheet as are normally included with the federal return.

The purpose of this penalty provision is to ensure that sufficient information is disclosed on the return. If major schedules (such as the balance sheet) are omitted or incomplete, or if schedules are consistently omitted or incomplete, then the penalty will be imposed. The more severe or consistent the omission, the more likely it is that the penalty will be imposed.

## RATES OF TAX

(a) **Franchise tax** - \$2.50 per \$1,000, or fractional part thereof, of capital, surplus, undivided profits and true reserves employed in Mississippi (**Minimum tax of \$25**).

(b) **Income Tax** - 3% on the first \$5,000 of taxable income, 4% on the next \$5,000 of taxable income, and 5% on taxable income in excess of \$10,000.

## WHO MUST SIGN

The return must be signed by the president, vice president or other officer of the corporation. A receiver, trustee, or assignee must sign any return which he/she is required to file on behalf of a corporation.

## FRANCHISE TAX INSTRUCTIONS

The franchise tax is measured by the value of capital used, invested or employed in the exercise of any power, privilege or right enjoyed by the corporation within Mississippi. The mode of measurement is the amount of capital of the corporation employed or so situated as to be privileged to be employed in the state. In determining the amount of capital, the net book value as regularly employed in conducting the affairs of the corporation shall be accepted as prima facie correct as to the true capital of the corporation, except where the Commissioner determines that the book value does not properly reflect capital employed in this state and in that situation the Commissioner's determination of capital shall be prima facie correct.

Form 83-110, Corporate Franchise Tax Schedule, must be completed by all corporations indicating the amount of capital of the corporation. All reserves that do not represent definitely known and fixed liabilities must be considered as elements of capital of the corporation. Amounts designated for payment of dividends may not be excluded unless such amounts have been definitely and irrevocably placed to the credit of the stockholder, subject to withdrawal on demand. Sums representing debts, notes, bonds, mortgages due and payable, depreciation reserves, bad debt reserves, or reserves representing valuation accounts may be excluded (unless between affiliated companies or shareholders).

### Attention: Multistate Taxpayers

**Lines 10 through 13 of Form 83-110** must be completed by multistate corporations doing business both within and without Mississippi. Total capital of a multistate corporation is apportioned to Mississippi in the ratio that real and tangible personal property owned in Mississippi and gross receipts from business carried on in Mississippi bears to the total real and tangible personal property owned by the corporation and gross receipts wherever located and from wherever received.

The amount of capital apportioned to Mississippi is computed on **line 14, Form 83-110**. The section of Form 83-110 concerning the assessed values of all real and personal property in Mississippi must be completed by all corporations. Miss Code Ann. § 27-13-9 and § 27-13-13, provide that the amount of the determined capital in Mississippi shall in no case be less than the assessed value of the Mississippi property of the corporation for the year preceding the year in which the return is due.

Taxable capital is calculated on **lines 16 through 19 of Form 83-110**. The amount of taxable capital shown on **line 19** should be entered on line 1, Form 83-105.

For tax years ending on or after December 31, 2001 – The property and receipts of flow-through entities must be included in a multistate corporate partner's computation of the apportionment ratio applied to the capital base. The assessed value of property of flow-through entities must be included in a multistate corporate partner's assessed value of property when determining the alternate capital base.

## INSTRUCTIONS FOR COMPUTING TAXABLE INCOME

Generally, all domestic and foreign corporations having income from sources within Mississippi must complete Form 83-122, Computation of Net Taxable Income Schedule, which makes adjustments for additions to and deductions from Federal ordinary income due to differences in Federal and

Mississippi laws, in arriving at the net income (loss) for State purposes.

### Total Assignment of Income

If the business activity in respect to any trade or business of the corporation occurs within this state, and if by reason of such business activity the corporation is not taxable in another state, the total net income (loss) of the corporation is assigned to Mississippi.

### Direct or Separate Accounting Method

Producers of Mineral or Natural Resource Products and construction contractors are required to use direct accounting in computing their taxable income to this state. For more details see Title 35, Part III, Subpart 08, Chapter 06 of the Miss Admin Code. Other taxpayers may not employ a direct accounting method unless they have obtained written authority from the Commissioner to do so.

### Apportionment of Business Income

If the business activity in respect to any trade or business of a taxpayer occurs both within and without this state, and if by reason of such business activity the taxpayer is taxable in another state, the portion of the net income (loss) arising from such trade or business which is derived from sources within this state, shall be determined by apportionment in accordance with the formulas prescribed by Title 35, Part III, Subpart 08, Chapter 06 of the Miss Admin Code unless prescribed otherwise. In such case, the taxpayer must complete Form 83-125, Mississippi Business Income Apportionment Schedule. Multistate contractors use Form 83-124.

### Allocation of Nonbusiness Income

Nonbusiness income (loss) shall be allocated by multistate corporations within and without this state in accordance with the provisions of Title 35, Part III, Subpart 08, Chapter 06 of the Miss Admin Code.

## COMBINED INCOME TAX RETURNS FOR AFFILIATED GROUP OF CORPORATIONS

- **THE TAX RETURNS OF ALL MEMBERS IN A COMBINED GROUP SHOULD BE SENT IN AT THE SAME TIME.**
- **DO NOT STAPLE ALL OF THE RETURNS TOGETHER. EACH RETURN SHOULD BE FASTENED SEPARATELY.**

EACH corporation of an affiliated group of corporations eligible for and electing to file in a combined income tax return must file its own Mississippi corporate income tax return (Form 83-105) and each corporation must complete and attach to their respective return all applicable schedules including the schedule for computation of net income (loss), Form 83-122.

Mississippi income tax due on the combined net income of the affiliated group must be determined and reported by the Reporting Corporation. In addition to the regular income tax return, the designated Reporting Corporation must complete and attach to its return Form 83-310, Summary of Net Income of Corporations. Other included members of the group should enter "zero" on page 1, line 5, Form 83-105 and must indicate the name and FEIN number of the Reporting Corporation.

In case of delinquency or failure on the part of the Reporting Corporation to report and pay the income tax due, each included member of the affiliated group is severally liable for the tax on a combined return and for any determined deficiency thereon.

Combined reporting is authorized only with respect to the income tax levy. **Mississippi law does NOT authorize combined reporting for franchise tax**; therefore, separate returns are required of all corporations chartered to do business in Mississippi or which are in fact doing business in Mississippi.

**PAYMENT: Taxpayer must issue separate checks for Franchise Tax due from all entities included in combined return.**

### **NET OPERATING LOSSES (NOL)**

For any taxable year ending after December 31, 2001, the period for net operating loss carrybacks and net operating loss carryovers is two periods back and twenty periods forward. This is **NOT** in accordance with federal carryback and carryover provisions that provide for a five-year carryback period.

A short taxable year counts as a taxable year. A taxpayer may elect to forgo the carryback and carryforward the net operating loss on Form 83-155. Once this election is made, it cannot be changed.

**Form 83-155 must be completed and attached, or a NOL deduction will not be allowed.**

### **INSTALLMENT SALES**

Mississippi does not follow federal rules concerning installment sales. Gain from the sale of casual property will be recognized in the year of sale. However, tax on the gain may be deferred. Deferred taxes are generally paid as the proceeds from the sale are received. However, the following will result in acceleration of payments:

1. Transfer, disposition, sale, or disposal of the note in any manner will result in deferred tax payments becoming immediately due and payable.
2. Liquidation, dissolution, withdrawal from this state, and certain merger transactions will result in deferred tax payments becoming immediately due and payable.
3. Failure to comply with the necessary filing requirements.

Taxpayer's who elect the installment method for federal income tax purposes should include as a part of their return filing both a Federal Form 6252 and a schedule of any differences between the federal and Mississippi amounts.

### **DEDUCTIBILITY OF CERTAIN INTANGIBLE EXPENSES AND RELATED INTEREST EXPENSES INCURRED WITH RELATED MEMBERS**

A taxpayer will be required to add back the following to its computation of net income:

1. Intangible expenses and costs and interest expenses and costs in relation to or in connection with the direct or indirect maintenance or management, ownership, sale, exchange, or other disposition of intangible property.
2. Royalty, patent, technical, and copyright fees, licensing fees, and other similar expenses.

3. Expenses and costs associated directly or indirectly with factoring transactions or discounting transactions.

Intangible property includes patents, patent applications, trade names, trademarks, service marks and similar types of intangible assets.

**Limitations:** The adjustment will not apply to such portion of intangible expenses, interest expenses and costs which are not with a related member; or the related member is not primarily engaged in the acquisition, use, maintenance, management, ownership, sale, exchange or other disposition of intangible property; and, the transaction(s) were done for a valid business purpose.

### **ARMS-LENGTH TRANSACTIONS**

The state definition of "arms-length" is not tied to that of the Federal definition. See Miss Code Ann. § 27-7-9(j)(6). The Commissioner can adjust a transaction when income has been shifted between related parties and/or taxes have been avoided in this state.

### **LONG TERM CAPITAL GAINS FROM SALES OF STOCK/INTEREST IN DOMESTIC (MISSISSIPPI) CORPORATIONS, LIMITED PARTNERSHIPS OR LIMITED LIABILITY COMPANIES**

Gains from the sale of certain stocks in domestic entities are not recognized as a part of income. However, the gain must be reduced by losses from the sale of certain stocks in domestic entities if the losses were incurred in the year of the gain or within the two years preceding or subsequent to the gain. See Miss Code Ann. §27-7-9(f)(10).

### **CAPITAL LOSS CARRYBACKS/CARRYFORWARDS**

Capital losses may be deducted only to the extent of capital gains. Capital losses may not be used to offset the gains of another member in a combined group filing. Any unused capital losses are carried back three years and forward five years. The definition of capital loss carryover, capital loss carryback, short-term capital loss, long-term capital loss, and similar terms are the same as for federal income tax purposes. Form 83-155 must be attached showing the carryback and carryover of capital losses.

### **EXTRATERRITORIAL INCOME**

Mississippi has not adopted Federal provisions related to Extraterritorial Income Exclusion. The amount related to this exclusion of income on the Federal Return must be added back in the Mississippi income tax return prior to the apportionment of income. The proper placement for this Mississippi adjustment to federal income on Form 83-122, and 84-122 is on the line titled "Other Additions Required by Law". A copy of Federal Form 8873 should be attached to the Mississippi return when this adjustment is being made for federal purposes.

In addition, a FSC (foreign sales corporation) that is organized under the laws of a U.S. territory is treated as a domestic corporation and, thus, dividends received from it are considered apportionable business income.

### **BUSINESS INCOME OF PRODUCERS OF MINERAL OR NATURAL RESOURCE PRODUCTS**

Taxpayers engaged in the trade or business of producing oil, gas, other liquid hydrocarbons, sulfur, coal, sand, gravel and

other mineral or natural resource products, except timber, shall determine Mississippi net business income from such activity on a direct or separate accounting basis.

The Mississippi gross business income from the production of mineral or natural resources shall include: (a) Sales of natural or mineral resources produced in Mississippi and sold in this state; (b) the market value, at the time of transfer, of all natural or mineral resources produced in this state and transferred by the taxpayer to another state for sale, refining, processing or manufacturing, provided that if the natural or mineral resources are sold by means of an "arms-length" transaction prior to refining, processing or manufacturing, the market value prescribed herein shall not exceed the selling price; and (c) the market value at the time of transfer, of all natural or mineral resources produced by the taxpayer in Mississippi and transferred to a refinery, processing plant, or manufacturing facility of the taxpayer in Mississippi.

A natural resource product shall be deemed to be sold in Mississippi if it is located in this state at the time title thereto passes to the purchaser. In the absence of specific proof of value of natural resources at the time of transfer from the state, the value of natural resources at the time of production shall be determined in accordance with the methods prescribed for the determination of "gross income from the property" for purposes of percentage depletion for federal income tax purposes.

#### **UNRELATED BUSINESS TAXABLE INCOME OF OTHERWISE EXEMPT ORGANIZATIONS**

For tax years beginning on or after January 1, 2002, every exempt organization, as described in Miss Code Ann. § 27-7-27 or § 27-7-29 and not otherwise exempt from the income tax levy (federal & state agencies, etc.), is required to file an income tax return with this state if the organization:

- 1) earns or receives unrelated business taxable income as determined under IRC Section 512 or is an ESOP with an interest in an "S" corporation, and
- 2) is a resident of this state, doing business in this state, or receiving income from sources within this state.

**Corporate organizations** file Form 83-105 and any necessary supplemental schedules.

**Trust organizations** file Form 81-110 and any necessary supplemental schedules. In computing taxable income, enter on line 1 of Form 83-122 (line 1, page 2 of Form 81-110 for trust organizations) the amount of unrelated business taxable income before any net operating loss and specific deduction as reported on Federal Form 990-T. A complete and signed copy of Federal Form 990-T must be attached to the back of the Mississippi schedules as a part of the return filing. Make any necessary adjustments for income/expenses otherwise included/excluded under the income tax laws of this state such as income from sources without this state, add-back of nondeductible income taxes, etc.

Exempt corporate organizations required to file Form 83-105 which are not subject to the franchise tax levy should leave lines 2 through 4 blank.

Corporate organizations with unrelated business taxable income are subject to the same estimated payment requirements as other corporate taxpayers. Corporate organizations must make all required tax payments by the 15th day of the third month following the close of the tax year.

While the filing deadline is also the 15th day of the third month following the close of the tax year, an automatic six-month filing extension is granted. If a taxpayer files an extension for federal tax purposes, the Mississippi filing deadline will be extended through the date of the federal extension as well.

Trust organizations, including employee and retirement trusts having unrelated business taxable income must file Form 81-110. Employee Stock Ownership Plans that receive Mississippi income as a shareholder in an "S" corporation must include such income as a part of Mississippi taxable income. The source of the income is determined by the "S" corporation's activities and is reported on Form 84-132 to the ESOP shareholder.

Trust organizations must make all required tax payments by the 15th day of the fourth month following the close of the tax year. Generally, if a filing extension is granted for federal tax purposes, it will be granted for state purposes as well. A copy of the federally approved extension must be attached with the return filing.

#### **INCENTIVE CREDITS**

Incentive credits may be used to offset all or part of the corporate income tax liability. For any of these credits to be allowed, schedules must be attached showing the computations. Form 83-401, Income Tax Credit Summary, should be completed and attached as a part of the return.

**The following is a brief description of the major credits allowed under State statutes:**

##### **Jobs Tax Credit**

A credit is allowed for increasing employment levels in certain types of business. The business must be primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling, or research and development; or designated by rule and regulation by the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of 150 guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprises.

The amount of the credit is based on the number of new jobs created and the county where the jobs are created. The credit is good for a period of five (5) years. This credit may be used in combination with any of the other credits. However, the total of the Jobs Tax Credit is limited to 50% of the income tax liability attributable to the income derived from operations in this state for that year. Any credit claimed but not used in a taxable year may be carried forward for 5 years.

Effective January 1, 2005, the calculation of the credit was changed to a percentage of payroll for new full-time jobs:

<u>County Ranking</u>	<u>Avg. Min. Inc. of Jobs</u>	<u>Percentage of Payroll</u>
Tier One (Developed)	20 or More	2.5%
Tier Two (Moderately Developed)	15 or More	5%

<u>County Ranking</u>	<u>Avg. Min. Inc. of Jobs</u>	<u>Percentage of Payroll</u>
Tier Three (Less Developed)	10 or More	10%

The number of jobs must be created within one (1) year and is measured at the end of the fiscal year. They cannot be accumulated over several years. The credit is available for each net new full-time job created as long as the minimum number has been achieved and maintained. The credit is for full-time positions only. You cannot combine part-time jobs to add up to a full-time job. The credit is based on filled positions and the employees must be employed in this state and subject to Mississippi Withholding Tax. Form 83-450, New Jobs Credit Schedule, must be completed and attached to the return. Please attach to this form, a schedule listing the new full-time jobs created (titles/pins, date created and payroll amount for the year).

### **Skills Training Credit**

A credit is allowed for certain employer-sponsored basic skill training and retraining programs. The credit allowed is 50% of qualified expenses not to exceed 50% of the income tax liability. Any excess credit will not be refunded, but can be carried forward for up to five (5) years. In addition, the credit shall not exceed \$2,500 per employee per year. The job training and retraining tax credit shall be in addition to all other tax credits heretofore granted by the laws of this state. The repeal date on this provision is extended to July 1, 2012.

### **Mississippi Business Finance Corporation Revenue Bond Service Credit**

Only debt service paid on revenue bonds issued by the Mississippi Business Finance Corporation to finance economic development projects to induce the location of manufacturing facilities within this state can be taken as a credit. This credit can be used against the taxes due from the income generated by or arising out of the economic development project. For more information on the benefits of this program contact: Mississippi Development Authority, P.O. Box 849, Jackson, MS 39205-0849.

### **Ad Valorem Inventory Tax Credit**

This is an income tax credit for manufacturers, distributors and wholesale or retail merchants for a certain amount of ad valorem taxes paid on commodities, goods, wares and merchandise held for resale. The credit may be claimed only in the year in which the ad valorem taxes are paid and may be claimed for each location where such commodities, products, goods, wares and merchandise are found and upon which the ad valorem taxes have been paid. The tax credit for each location on which ad valorem taxes have been paid, shall not exceed the lesser of \$5,000 or the amount of income taxes attributable to such location.

The act also provides that any ad valorem taxes paid by a taxpayer that is applied toward the tax credit may not be used as a deduction by the taxpayer for state income tax purposes.

**A COPY OF THE TAX RECEIPT FROM THE COUNTY THAT SHOWS THE INVENTORY VALUATION AND A SCHEDULE SHOWING THE CALCULATION OF THE AD VALOREM TAX PAID BASED ON THE VALUATION MUST BE ATTACHED TO THE RETURN.**

### **Export Port Charges Credit**

An income tax credit is authorized for taxpayers that utilize the port facilities at state, county, or municipal ports. The income tax credit is equal to the total export cargo charges paid by the taxpayer for: (a) receiving in the port; (b) handling to a vessel; and (c) wharfage. The credit provided shall not exceed 50% of the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits. Any unused portion of the credit may be carried forward for the succeeding 5 years. The maximum cumulative credit that may be claimed by a taxpayer pursuant to this act beginning January 1, 1994 and ending July 1, 2012 is limited to \$1,200,000.

### **Import Port Charges Credit**

An income tax credit is authorized for taxpayers that utilize the port facilities at state, county, or municipal ports for the import of cargo. To be eligible, a taxpayer must locate its United States headquarters in Mississippi on or after January 1, 2005, employ at least five (5) permanent full-time employees who actually work at such headquarters and have a minimum capital investment of Five Million Dollars (\$5,000,000.00) in Mississippi. The income tax credit is equal to the charges paid by the taxpayer for: (a) receiving in the port; (b) handling to a vessel; and (c) wharfage. The credit provided shall not exceed 50% of the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits. Any unused portion of the credit may be carried forward for the succeeding 5 years. The maximum cumulative credit that may be claimed ranges between \$1,000,000 (one million) and \$4,000,000 (four million) depending on the number of permanent full-time employees of the taxpayer.

### **Reforestation Tax Credit (RTC)**

This credit, based on the costs incurred for certain approved reforestation practices, is an amount equal to the lesser of fifty percent (50%) of the actual cost of approved practices or fifty percent (50%) of the average cost of approved practices as established by the Mississippi Forestry Commission. In any taxable year, the maximum amount of RTC shall not exceed the lesser of (\$10,000) or 6 the amount of income tax imposed upon the eligible owner for the taxable year reduced by the sum of all other credits allowable to the eligible owner. The lifetime maximum reforestation tax credit that an eligible owner may utilize is (\$10,000) in the aggregate. Effective January 1, 2007, the lifetime maximum RTC that an eligible owner may utilize is \$75,000.00. Any unused portion of the RTC may be carried forward to succeeding years. Reforested acreage on which the eligible owner receives any state or federal cost share assistance funds to defray the cost of an approved reforestation practice is not eligible for the RTC. The RTC is not available to private corporations which manufacture products or provide public utility services of any type or any subsidiary of such corporations.

### **Broadband Technology Credit (BTC)**

A tax credit is provided for telecommunications enterprises making investments in equipment used in the deployment of broadband technologies. The credit applies to both income and franchise taxes. The credit is a percentage of the cost of the investments incurred after June 30, 2003 and before July 1, 2013. The percentage applied is 5%, 10%, and 15% for Tier 1, Tier 2, & Tier 3 counties respectively. For more

details on eligibility, computation of the credit, qualifying expenditures, limitations, carryovers, as well as any necessary forms or work sheets, please contact the Corporate Tax Division at 601-923-7099. Enterprises qualifying for this credit are able to receive certain sales tax exemptions as well. For more information please contact the Sales Tax Bureau at 601-923-7015.

### **Manufacturing Investment Tax Credit**

A manufacturing enterprise who falls within the definition of the term "manufacturer" in Miss Code Ann § 27-65-11 and has operated in the state for at least two (2) years is allowed a manufacturing investment tax credit for income tax equal to five percent (5%) of the eligible investments made by the manufacturing enterprise. "Eligible investment" means an investment of at least One Million Dollars (\$1,000,000.00) in buildings and/or equipment for the manufacturing enterprise.

The maximum credit that may be claimed by a taxpayer on any project shall be limited to One Million Dollars (\$1,000,000.00). The Manufacturing Investment Tax Credit shall not exceed fifty percent (50%) of the taxpayer's state income tax liability in any one tax year. Any Manufacturing Investment Tax Credit claimed but not used may be carried forward for five (5) years from the close of the tax year in which the eligible investment was made. For more details on eligibility, computation of the credit, qualifying expenditures, limitations, carryovers, as well as any necessary forms or work sheets, please contact the Corporate Tax Division at 601-923-7099.

### **Wildlife Land Use Credit**

Effective January 1, 2010, a state income tax credit is allowed that provides a \$5.50 per acre tax credit for certain taxpayers that allow land to be used as a natural area preserve, wildlife refuge, wildlife management area or public outdoor recreation area. Land must first be approved to be suitable for the uses listed above by the Mississippi Commission on Wildlife, Fisheries and Parks. Any unused credit amount may be carried forward for five (5) years from the close of the taxable year in which the land was approved for such a use.

### **General Restrictions on the Incentive Credit**

**The only credits whose usage are dependent on another credit are the Export Port Charges Credit, Import Port Charges Credit, and the Reforestation Tax Credit. The RTC should be used last.**

The total of the Jobs Tax Credit, the Headquarters Credit and the R & D Skills Credit, cannot exceed 50% of the total income tax due. The other credits are not limited in such a manner and their usage will be independent of one another. When one credit is limited to 50% of the income tax due and another one is also limited to 50% then combined they may offset 100% of the income tax due. It will be up to the taxpayer to list which credits are to be used on the tax return. Please keep in mind that a number of the credits do not have carry forward provisions.

When a deduction on the Mississippi tax return also gives rise to a tax credit, the amount of that credit which is being used in the current return must be added back to Mississippi income (loss) after any apportionment of income. The adding back of the credit to taxable income will increase the tax liability, which may increase the amount of credit that may be taken. When this is the case, continue to increase the amount of credit being used and add back to income until there is a difference

of \$1,000.00 or less between the two. Therefore, the credit added back may be, at most, \$1,000.00 less than the credit being used.

Some credits are based on a percentage of an expense, and in this case only the credit used should be added back. Those credits which are affected are: Finance Company Privilege, Child/Dependent Care, Skills Training, Gaming, Rural Economic Development (RED), Export Port Charges, Import Port Charges, Reforestation, and Ad Valorem tax credits.

The credits allowed shall not be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credit.

### **Growth and Prosperity (GAP) Areas Tax Exemption**

The Growth and Prosperity (GAP) Areas Tax Exemption was created to encourage businesses to locate facilities and hire individuals in areas that have a certain percentage of the population below the federal poverty level or have an unemployment rate that is 200% of the state's average unemployment rate.

The income and franchise tax exemption is available for a period of ten (10) years for certain businesses locating in a designated GAP area. The eligible businesses include ones that manufacture, process, assemble, store, warehouse, service, distribute, sell any products or goods including products of agriculture, research and development, and others as determined by MDA which will create at least ten (10) jobs.

Businesses that cannot claim the exemption are retail establishments, gaming businesses or casinos and electrical generation facilities. An eligible business that constructs a new facility or expands an existing facility located in one of the designated GAP areas can apply to MDA to be exempted from state and local taxes for a period of ten (10) years or until December 31, 2022, whichever occurs first.

A business that relocates from a county in Mississippi to a GAP Area is not eligible for the exemption. When filing the state income and franchise tax return claiming the exemption, attach a schedule showing the calculation of how the exemption was calculated, a copy of the certification from the MDA and the completed application, and the Income and Franchise Tax Credit Summary (Form 83-401) showing all credits taken.

The GAP Area Exemption is authorized under Miss Code Ann. § 27-7-21, § 27-13-5 and § 57-80-1 through § 57-80-11. For more information on the GAP Areas, please contact Mississippi Development Authority, Financial Resources Division – GAP Program at P.O. Box 849, Jackson, MS 39205.

### **Completing the Return**

#### **Round to the Nearest Dollar**

All dollar amounts should be rounded to the nearest whole dollar (no pennies). Round down to the next lower dollar amounts under \$.50 and round up to the next higher dollar amounts of \$.50 and over. For example: \$2.15 becomes \$2.00; \$4.75 becomes \$5.00; and \$3.50 becomes \$4.00. Additional schedules or attachments may be stapled to the return. Follow the line instructions on the return. Additional specific instructions are on the following page.

**LINE ITEM INSTRUCTIONS FOR FORM 83-105 PAGE 1**

**Taxpayer Information**

Please provide all information requested. County codes are listed in the following table. Enter the code corresponding to your principal business location.

County	Codes	County	Code	County	Code
Adams	01	Itawamba	29	Pike	57
Alcorn	02	Jackson	30	Pontotoc	58
Amite	03	Jasper	31	Prentiss	59
Attala	04	Jefferson	32	Quitman	60
Benton	05	Jefferson-Davis	33	Rankin	61
Bolivar	06	Jones	34	Scott	62
Calhoun	07	Kemper	35	Sharkey	63
Carroll	08	Lafayette	36	Simpson	64
Chickasaw	09	Lamar	37	Smith	65
Choctaw	10	Lauderdale	38	Stone	66
Claiborne	11	Lawrence	39	Sunflower	67
Clarke	12	Leake	40	Tallahatchie	68
Clay	13	Lee	41	Tate	69
Coahoma	14	Leflore	42	Tippah	70
Copiah	15	Lincoln	43	Tishomingo	71
Covington	16	Lowndes	44	Tunica	72
Desoto	17	Madison	45	Union	73
Forrest	18	Marion	46	Walthall	74
Franklin	19	Marshall	47	Warren	75
George	20	Monroe	48	Washington	76
Greene	21	Montgomery	49	Wayne	77
Grenada	22	Neshoba	50	Webster	78
Hancock	23	Newton	51	Wilkinson	79
Harrison	24	Noxubee	52	Winston	80
Hinds	25	Oktibbeha	53	Yalobusha	81
Holmes	26	Panola	54	Yazoo	82
Humphreys	27	Pearl River	55	<b>Out-of-State</b>	83
Issaquena	28	Perry	56		

**Line 1.** Enter the amount of taxable capital from Form 83-110, line 19.

**Line 2.** Enter the amount of franchise tax due. Franchise tax is due by the original due date of the return. The automatic six-month extension of time only extends the time for filing the return, not the payment of any tax. If the franchise tax is not paid by the original due date, interest and penalty for late payment should be computed and entered on line 15 and 16.

**Line 3.** For each credit claimed From Form 83-401, line 1, enter the total amount of franchise tax credit.

**Line 4.** Enter the net franchise tax due (line 2 less line 3). If line 3 equals or exceeds the amount shown on line 2, enter a zero.

If filing a combined return enter the name and Federal employer identification number of the Reporting Corporation.

Each corporation included in the combined return must file its own separate return on which it computes and remits its franchise tax, and also computes its Mississippi taxable income. The taxable income (loss) computed by each corporation is then combined on the Reporting Corporation's return.

**Line 5.** If this corporation is not included in a combined group, enter the amount of Mississippi net taxable income from line 30 of Form 83-122, Computation of Net Taxable Income Schedule. If a combined return is filed, enter zero, **except the Reporting Corporation**, which enters the combined group's Mississippi net taxable income from Form 83-310, Summary of Net Income of Corporations.

**Line 6.** Enter the amount of income tax due. The rates of tax are: 3% on the first \$5,000 of taxable income; 4% on the next \$5,000 of taxable income; and 5% on taxable income in excess of \$10,000.

**Line 7.** For each income credit claimed enter the amount of credit. For limitations please see the credits section on pages 5 through 7.

**Line 8.** Enter the net income tax due (line 6 less line 7). If line 7 equals or exceeds the amount shown on line 6, enter a zero.

**Line 9.** Enter the total franchise and income tax due. (Add lines 4 and 8).

**Line 10.** Enter the credit due for previous payment. The amount of overpayment from the prior year should be the amount shown on the previous return as an overpayment to be credited to the next year.

**Line 11.** Enter the total amount of estimated tax payments and payments with extensions. This should equal the total of quarterly estimated income tax payments and the amount of income and franchise tax paid with the request for an automatic six-month extension of time to file.

**Line 12.** Enter the total previous payments made for the tax year (add lines 10 and 11).

**Line 13.** Enter the net total franchise and income tax due. This is the amount of total tax due less previous payments (line 9 minus line 12).

**Line 14.** If the current Mississippi Income Tax liability (line 8) is \$200 or less, then estimated income tax payments were not required for this year. If the current year Mississippi Income Tax liability exceeded \$200, Form 83-305 should be completed and attached to the return. Enter on this line the amount shown on Form 83-305, line 19.

**Line 15.** Enter the amount of interest due on late payment of the tax. An extension of time only extends the time for filing a return, not payment of the tax. If the income and franchise tax is not paid by the original due date of the return, then interest is due at the rate of 1% per month.



**Line 16.** Enter the amount of penalty due on late payment of the tax. An extension of time only extends the time for filing a return, not the payment of tax. The penalty imposed for failure to pay the tax when due 1/2% per month, not to exceed 25% in the aggregate.

**Line 17.** Enter the amount of penalty due for failure to file a return by the due date of the return. The penalty for failure to file a return is 5% per month not to exceed 25% in the aggregate. Such failure to file penalty shall not be less than \$100 for income tax.

**Line 18.** Enter the balance of tax due. This is the amount of total tax due less previous payments plus interest and penalties (line 9 minus line 12 plus lines 13 through line 17).

**Line 19.** If there is an overpayment (line 12 minus line 9), enter the amount of the total overpayment on this line.

**Line 20.** Enter the portion of line 19 that you wish to carry forward and credit against your next year's tax liability. This credit will be considered for estimated income tax purposes as a first quarter payment.

**Line 21.** Enter the portion of line 19 that you wish refunded. The total of line 20 and line 21 should equal line 19.

#### LINE ITEM INSTRUCTIONS FOR FORM 83-122

##### General Instructions:

- Taxpayers must make certain adjustments to federal taxable income in arriving at Mississippi net income. This schedule highlights some of the differences but is not an all-inclusive list.
- The Mississippi Administrative Code is available at our web site ([www.dor.ms.gov](http://www.dor.ms.gov)). The Mississippi Code is available at the Secretary of State's web site (<http://www.sos.ms.gov>).
- Multistate construction contractors and producers of mineral or natural resource products are required to use direct accounting and file Form 83-124. In this situation, lines 1 through 10 of this form are not completed unless the taxpayer also has income apportionable to this state from another line of business.
- Lines 7, 8, 9, 11, & 13 of this form do not apply to taxpayers doing business only in Mississippi.

##### LINE INSTRUCTIONS:

**Line 1.** Enter the amount of taxable income (loss) (before Net operating Loss and Special Deductions) per Federal Form 1120.

**Line 2.** Enter the amount of state, local and foreign government income taxes claimed as a deduction on Form 1120.

**Line 3.** Enter the amount of interest on obligations of states and political subdivisions thereof (other than Mississippi) received by the corporation, net of expenses.

**Line 4.** Enter the amount of depletion claimed on Form 1120 in excess of the cost basis of the asset on which the depletion is claimed.

**Line 5.** Enter the amount of any capital loss carryover claimed in computing federal taxable income. Capital loss carryovers, just as net operating losses, must be computed separately for Mississippi tax purposes.

**Line 6.** Enter the amount of special depreciation allowance claimed for federal tax purposes. Federal Form 4562 must be completed twice and attached immediately after Form 83-122.

The first submission reflects the deductions taken for federal income tax purposes. The second submission will be labeled Mississippi at the top of the form and will compute the apportionable and/or allocable depreciation deduction without taking into account any special depreciation allowance (generally line 14 of Federal Form 4562).

Any difference between the two submissions resulting from the special depreciation allowance is reported as an increase on this line. Any additional depreciation expense, for purposes of this state, due to the basis adjustment not being made is reported on line 13 of this form.

**Line 7.** Enter any other additions required by law. Other additions include, but are not limited to, 1) charitable contribution carryovers, 2) unrecognized installment sale gains, and 3) add back of intangible expenses and costs and interest expenses and costs incurred with certain related members. Mississippi allows a 20% deduction for charitable contributions (as compared to 10% for federal), but does not allow a carryover of any unused contributions deduction.

For more information on treatment of installment sales, as well as the years effected, see Section 27-7-9 of the code.

Intangible expenses and costs and interest expenses and costs incurred with certain related members must be added back to income. For details see Section 27-7-17(2).

**Line 9.** Exempt interest received on direct U. S. Government obligations (see Title 35, Part III, Subpart 02, Chapter 04 of the Miss Admin Code on what constitutes a direct obligation) is not taxable to Mississippi. Enter the amount of such interest reported as income on Form 1120, net of expenses.

**Line 10.** Enter the amount of wage expense that was not deducted on Form 1120 because a federal tax credit was taken in lieu of an expense.

**Line 11.** Enter the income/loss from a partnership or other flow-through entity. Flow-through entity income is allocated based on the source as determined in the hands of the flow-through entity rather than the owner.

**Line 12.** Multistate construction contractors and producers of mineral or natural resource products must use direct accounting (Form 83-124 - Direct Accounting Income Statement), to report the income from these lines of business. Enter the income (net of expenses) from these lines of business as reported on Federal Form 1120.

For further information concerning accounting methods for contractors and mineral producers please see Title 35, Part III, Subpart 08, Chapter 06 of the Miss Admin Code for details. If this is your only line of business in Mississippi, skip lines 1 through 22 and start with line 23.

**Line 13.** When a special depreciation allowance is taken for federal tax purposes, the depreciable base must be reduced by the amount of the allowance. Enter the additional depreciation expense for purposes of this state due to the basis adjustment not being made for state purposes. Attach supporting computations for any amounts claimed.

**Line 14.** Enter any other deductions authorized by law. For each adjustment, provide an explanation of the basis for exclusion and a schedule showing how the amount is computed. In particular, gain from the sale of an interest in certain types of domestic entities may not be recognized for state purposes. If this is applicable provide a schedule showing the computation of the non-recognized gain. For more details on what qualifies for this exclusion, see Miss Code Ann. § 27-7-9(f)(10).

**Line 17.** Enter the amount of nonbusiness income (loss) shown on the Nonbusiness Income Worksheet, Form 83-150, Column E.

**Line 21.** Enter the amount of nonbusiness income (loss) allocated to this state shown on the Nonbusiness Income Worksheet, Form 83-150, Column F.

**Line 22.** Enter the amount of Mississippi sourced income (loss) received from flow-through entities (Attach Mississippi K-1's).

**Line 23.** Enter the amount reported on Form 83-124, Page 1 Line 31 and/or Page 2, line 15.

**Line 24.** Enter the amount of actual tax credit claimed on this return from the tax credits with code numbers 2 through 30. For further instructions see "General Restrictions on the Incentive Credits" in the forms booklet.

**Line 25.** Enter the appropriate amount of separate company Mississippi capital loss carryover. The carryover deduction may not exceed the amount of current year Mississippi capital gains. Attach a completed Form 83-155 and a schedule showing how the amount of allowable capital loss was computed. Also attach Federal Form 4797, Sale of Business Property for capital loss.

**Line 26.** Enter other adjustments required by law including any adjustments resulting from installment sales.

**Line 28.** Deduct any available separate company MS net operating loss carryover or carryback to the extent of income. Attach a completed Form 83-155. If the corporation has any unused net operating loss carryover or carryback, it may be able to offset the loss against income of other members of its combined group subject to limitations. Mississippi does not conform to federal net operating loss rules.

**Line 29.** Enter amount of income exemption. When filing the state tax return claiming an exemption, attach a schedule showing the calculation of how the exemption was calculated, a copy of the certification from the Mississippi Development Authority (MDA) and the completed application.

#### **INSTRUCTIONS FOR INSURANCE COMPANIES FORM 83-391**

Form 85-390 is designed for foreign and domestic companies, including class B burial companies, writing life, accident and health, fire and casualty insurance. Title insurance companies and class A burial insurance companies should use the regular corporation Form 83-105.

The income tax law permits foreign non-life insurance companies to determine their Mississippi net income from underwriting by apportioning their company-wide net underwriting income. See Title 35, Part III, Subpart 10, Chapter 03 of the Miss Admin Code.

Companies using this method should disregard pages 2, 3 and 4 of the return in computing Mississippi income from underwriting and prepare a separate schedule. However, such companies reporting investment income to this state may use said pages in making this computation, if convenient.

The following instructions are applicable to companies determining their Mississippi income by the direct accounting method and should be used in conjunction with the regulations.

#### **PAGE 2 – COMPUTATION OF NET INCOME**

**All Companies** – See Title 35, Part III, Subpart 10, Chapter 03 for what constitutes taxable Mississippi reinsurance assumed and deductible Mississippi reinsurance ceded; Mississippi investment and other income; and for the computation of Mississippi unearned premiums when same are not accounted for specifically.

**Life Companies** – All lines are applicable except that lines 2, 6, and 10 will apply only to life companies writing accident and health insurance.

**Accident and Health Companies** – Disregard lines 1, 4, and 5. Show unearned premiums at lines 6 and 10 unless the increase is shown on page 3, line 8.

**Fire and Casualty Companies** – Disregard lines 2, 4, and 5.

#### **PAGE 2 – EXPENSE APPORTIONMENT RATIOS**

These ratios are to be used in apportioning non-allocable expenses. The ratio shown as Item 1 is to be used only by fire and casualty companies in apportioning non-allocable loss adjustment expenses entered on page 3, line 16.

Item 2 is applicable to life companies and fire and casualty companies and is to be used in apportioning non-allocable expenses on page 4. Life companies writing accident and health insurance must separately apportion non-allocable A. and H. expenses on a supplementary page 4 by using the A. and H. ratio shown as Item 3.

All companies reporting investment income to Mississippi must separately apportion non-allocable investment expenses on a supplementary page 4 by using the investment ratio shown as Item 4.

#### **PAGE 3 – DEDUCTIONS**

**Life Companies** – Disregard line 16. The descriptive language at Line 8 follows the language of the statute. The words "reserve funds" have been construed by the Commissioner as being synonymous with the word "reserves."

The increase in reserves must be reduced by the increase in net deferred and uncollected premiums if the latter increase has not been included in premium income. The increase in reserves must be reduced by any additions in excess of the amount required by the insurance laws and may be increased by excess reserves released on terminations if said excess was not deducted from income when established.

**All Companies** – Losses and contract benefits on reinsurance assumed are deductible only if the premium income thereon has been reported. Losses and contract benefits must be reduced by recoveries on reinsurance ceded if said reinsurance has been deducted from income. State and federal income taxes are not deductible under the statute. Payroll taxes should be allocated at line 11 if the corresponding salaries are allocated.

**Accident and Health Companies** – Disregard lines 3 through 7. Do not show at line 8 any increase in unearned premiums reflected on page 2.

**Fire and Casualty Companies** – Disregard lines 3 through 8.

**PAGES 2 AND 3 – COMPANY- WIDE COLUMNS**

Entries in these columns should be made on a net basis, that is, giving full effect to reinsurance assumed and ceded. Company-wide allocable expenses should be entered on page 3 even though a corresponding entry is not made in the Mississippi column. Such entries should be made in order that same may be compared with entries in the second money column on page 4.

**PAGE 4 – DEDUCTIONS APPORTIONED**

See instructions at top of page. A separate schedule must be completed for each department for which a part of the income is reported to this state. A life company reporting no A. and H. or investment income to this state may not deduct A. and H. or investment expense from Mississippi income but should work only from column (1), page 9 of the Annual Statement. Fire and casualty companies reporting no investment income to this state should work only from column (2), page 10 of the Annual Statement, since loss adjustment expenses are provided for on page 3 of this return. Expense items which are allocable in their entirety, such as premium taxes, should not be entered on page 4 but should appear only on page 3.

**District Offices of the Department of Revenue**

**Brookhaven** District Service Office  
P.O. Box 3999, Brookhaven, MS 39603-7999  
1385 Johnny Johnson Dr.  
Ph: (601) 833-4761 Fax: (601) 833-3096

**Greenwood** District Service Office  
P.O. Drawer D, Greenwood, MS 38935-0420  
117 B Grand Blvd.  
Ph: (662) 453-1742 Fax: (662) 453-7981

**Gulf Coast** District Service Office  
1141 Bayview Ave., Ste. 400  
Biloxi, MS 39530-1601  
Ph: (228) 436-0554 Fax: (228) 436-0964

**Hattiesburg** District Service Office  
P.O. Box 1709, Hattiesburg, MS 39403-1709  
17 JM Tatum Industrial Dr, Ste. 2  
Ph: (601) 545-1261 Fax: (601) 584-4051

**Jackson** District Service Office  
P.O. Box 1033, Jackson, MS 39215-1033  
1577 Springridge Rd., Raymond, MS 39154-9602  
Ph: (601) 923-7300 Fax: (601) 923-7318

**Meridian** District Service Office  
P.O. Box 3625, Meridian, MS 39303  
2600 Old N Hills St.  
Ph: (601) 483-2273 Fax: (601) 693-2473

**Senatobia** District Service Office  
P.O. Box 127, Senatobia, MS 38668  
2778 HWY 51 South.  
Ph: (662) 562-4489 Fax: (662) 562-7392

**Tupelo** District Service Office  
P.O. Box 3000, Tupelo, MS 38803  
2610 Traceland Dr. Tupelo, MS 38801  
Ph: (662) 842-4316 Fax: (662) 842-5041