

MISSISSIPPI
STATE TAX COMMISSION
OFFICE OF REVENUE
FORM 86-100

2001

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PLEASE USE THIS LABEL
ON YOUR RETURN



2001 Partnership/LLP/LLC Income Tax Forms

If someone else prepares your income tax return, please take this forms packet to that person so the peel-off label above and the enclosed envelope may be used for your return. There are some important things you can do to help speed processing and reduce the cost of your government:

- **Use the peel-off label.** Remove the label and place it in the name and address area of your return. If the label is NOT correct, neatly mark through incorrect information and plainly print or type correct information on the label. **DO NOT USE THIS LABEL ON COMPUTER GENERATED FORMS.**
- **Use the envelope enclosed in this booklet.**
- Additional schedules and attachments may be stapled to your return.
- C-Corporations and S-Corporations have separate forms booklets. If you received the wrong booklet, please call (601) 923-7815 for the correct set of forms and instructions.
- **Web site** - Please visit our web site located at www.mstc.state.ms.us to find any updates to the instructions and/or worksheets that are contained in this booklet. In the **Download Tax Forms** section, click on **Tax Year, Corporate Income and Franchise Tax, Partnership Tax, or S-Corporation Income and Franchise Tax.**
- **You may download forms from our web site.**

GENERAL INSTRUCTIONS

HOW TO FILL OUT FORMS

Use **Black Ink** when preparing these returns.

Indicating a Loss - To indicate a loss (negative income), shade the minus (-) box next to the dollar amount.

WHO MUST FILE

Every partnership, LLC, or LLP, domestic or foreign, deriving income from property owned within the State of Mississippi, or business, trade, profession or occupation, carried on within the State must file a Mississippi Partnership/Limited Liability Company/Limited Liability Partnership income tax return, Form 86-105 (which must be filed with a copy of the Federal return attached.)

DEFINITIONS

The term "partnership" includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, financial operation or venture is carried on, and which is not within the meaning of a corporation or a trust or estate. A domestic or foreign limited liability company (LLC) is classified as an entity for purposes of Mississippi income tax laws in the same manner as the entity is classified for federal income tax purposes. If an LLC is

CHANGES FOR 2001:

• **Extraterritorial Income** - Mississippi has not adopted federal provisions concerning the exclusion of extraterritorial income.

• **Income and Franchise Tax Exemptions** - The Mississippi legislature in a 2000 special session provided tax exemptions to promote development in growth and prosperity areas. For more detail please contact the Mississippi Development Authority.

House Bill 1695 (2001 regular session) effective January 1, 2001 made the following changes:

(For further detail see explanation on page six (6) or House Bill 1695 at www.ls.state.ms.us; click on Bill Status).

• **Arms-Length Transactions** - Compliance with IRC Section 482 is not a safe harbor for determining whether a transaction is considered arms-length for state tax purposes.

• **Installment Sales** - Gain from the sale of casual property will be recognized in the year of sale. Tax on the gain may be deferred with certain limitations. No deferral is allowed for most sales from Dec. 17, 1999 through Dec. 31, 2000.

• **Business Income** - The definition of "business income" was revised to clarify and delineate both the "transactional" and "functional" relationship tests.

• **Deductibility of Intangible Expenses and Costs and Related Interest Expenses Incurred with Certain Related Members** - Expenses and costs associated with the use, maintenance, etc. of intangible property which are incurred with certain related members will be required to be added back when computing net income.

• **Direct or Separate Accounting Method** - Multi-state taxpayers are no longer authorized to use the direct accounting method when computing net income.

• **Franchise Tax Apportionment Ratio (For tax years ending on or after December 31, 2001)** - The property and receipts of a flow-through entity must be included in a multi-state corporate partner's computation of the apportionment ratio applied to the capital base.

treated as a partnership for federal income tax purposes, it will file as a partnership for Mississippi purposes. If an LLC is treated as a corporation for federal income tax purposes, it will file as a corporation for Mississippi income and franchise tax purposes. In these instructions, all three entities (partnership, LLC, and LLP) may, at times, be referred to as "partnerships", and partner/members referred to as "partners".

TIME AND PLACE FOR FILING

Calendar year partnerships, LLCs and LLPs must file no later than April 15 annually. Fiscal year partnerships, LLCs and LLPs must file no later than the 15th day of the 4th month following the end of the fiscal year. An extension of time to

file a partnership/LLC/LLP return can be requested. Generally, an extension of time to file a Federal partnership return is recognized as an extension of time to file the state return. The partnership/LLC/LLP return should be mailed to: **Office of Revenue, P. O. Box 23050, Jackson, MS 39225-3050.**

PERIOD TO BE COVERED BY THE RETURN

Returns shall be filed on the basis of the 12-month accounting period established by the partnership, LLC or LLP for Federal income tax purposes which generally will be on a calendar year basis. If the return is for a fiscal year or a short tax year, fill in the tax year space at the top of the return.

PAYMENT OF TAX

A partnership, LLC or LLP does not pay tax on its income but "passes through" any profits or losses to its partners. Partners must include partnership items on their income tax returns. Individual partners are subject to tax upon their distributive share of partnership net income, whether it is distributed to them or not. A nonresident individual, who is a member of a partnership owning property or doing business in the State of Mississippi, is subject to tax on his share of the partnership net income, whether distributed or not. If the partnership does business both within and without the state, it will be necessary to compute the income (or loss) of the partnership from sources within the state in order to determine the amount of income taxable to, or the amount of the loss deductible by, the nonresident partners. The nonresident partner is subject to tax only on such share of his income, whether or not distributed, as is assignable to Mississippi.

In the event the individual partners fail to report and pay the taxes imposed according to Section 27-7-25 of the Mississippi Code of 1972, as amended, then the partnership and the general partners shall be jointly and severally liable for said tax liability and shall be assessed accordingly. However, the partnership and/or general partners shall not be liable if the partnership withholds five percent (5%) of the net gain or profit of the partnership for the tax year and remits the same to the Commissioner. Partnerships electing to report tax on partnership net income in this manner should request Form 86-387, Withholding of Partnership Income. A separate voucher must be remitted for each partner in order that payments can be properly credited. Partners with tax remitted to the State Tax Commission through partnership withholding should claim the amount as estimated tax on his or her individual income tax return. Form 86-387 should be provided to the partner by the partnership showing the correct amount withheld.

A partnership that has income from sources within and without Mississippi should withhold from Mississippi source income only. The Commissioner may allow composite return filing by a partnership. Instructions for filing a composite return are shown below.

WHO MUST SIGN

Form 86-105 is not considered to be a return unless it is signed. One general partner or limited liability company member must sign the return. If a receiver, trustee in bankruptcy, or assignee controls the organization's property or business, that person must sign the return.

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-Filers - Penalties are imposed for failure to file a return or pay the tax when due. The penalty imposed for failure to file a return is 5% per month not to exceed 25% in the aggregate. The penalty imposed for failure to file is based on the additional amount of tax due. Such failure to file a return penalty shall not be less than \$100.

Incomplete Returns - A partnership 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, description of product or services, and other information relating to the filing entity as requested on page 2 of Form 86-105.

Examples of the summary tax information are the front page of the return, the computation of net income, the computation of the apportionment factor (if income is apportioned), the direct accounting income statement (if applicable), and Schedule

K reflecting information pertaining to partners' distributive shares of income and deductions. 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, and details of nonbusiness income or loss directly allocable to Mississippi and other business income or loss as requested on the front page of the return.

COMPOSITE RETURNS

The Following Applies To Partners

NET OPERATING LOSSES

For any taxable year ending after December 31, 1997, the period for net operating loss carrybacks and net operating loss carryovers shall be the same as those established by the Internal Revenue Code and the rules, regulations, rulings and determinations promulgated thereunder. §27-7-17(1)(L) of the Mississippi Code of 1972, as amended, was amended so that when the Internal Revenue Code loss carryback and carryforward periods changes the Mississippi carryback and carryforward will change as well.

For years ended on or before December 31, 1997 the following applies: A net operating loss for any tax year ending after December 31, 1991, could be carried back to the taxable year preceding the year of the loss. A net operating loss for any tax year ending after December 31, 1992, can be carried back to the 2 taxable years preceding the year of the loss. A net operating loss for any tax year ending after December 31, 1993, can be carried back to the 3 taxable years preceding the year of the loss. Carry the net operating loss to the earliest year first. A short taxable year counts as a taxable year. A taxpayer can elect to relinquish the entire carryback period with regard to a net operating loss from an eligible year, but once this election is made, it cannot be changed.

Prior to January 1, 1992, Mississippi allowed a 5 year NOL carryforward but no carryback.

CAPITAL LOSS CARRYBACKS/CARRYFORWARDS

Effective for tax years beginning on or after January 1, 1992, the capital loss provisions were changed for Mississippi income tax purposes. Prior to the change, capital losses could be deducted against other income, but they were not allowed to be carried forward. After the law change, capital losses can only offset capital gains, but a capital loss can be carried back to the 3 taxable years preceding the loss year and be carried over to the 5 years succeeding the loss year. All provisions of the Internal Revenue Code in regard to limitations on capital losses, capital loss carrybacks and carryovers and holding periods shall be applicable.

A partnership may elect to file a composite return on behalf of its partners in very limited circumstances. A composite return is a return in which a partnership pays the income tax due for some, or all, of its partners. The only partners who are eligible to be included in the composite return are nonresident individual partners (natural persons) without any activity in Mississippi other than that from the partnership. Resident partners and nonresident partners with other activity in Mississippi cannot be included in a composite return. If a nonresident is going to file a Mississippi nonresident individual tax return he or she must not be included in a composite return, but should separately pay estimated taxes as an individual using voucher Form 80-300.

If the partnership elects to file a composite return, the partnership return is completed and filed like any other partnership return, but an additional schedule is attached listing the partners, the partner's identification or social security number, and the partner's share of income that is to be included in the composite return. In addition, the partnership files a nonresident individual return under the partnership name and identification number in which it includes the composite income. The partnership is allowed to deduct 10% of adjusted gross income not to exceed \$5,000 per composite return on the income that relates to individuals as the amount for personal exemptions and standard deductions. The tax is computed on the composite taxable income at a rate of 3% on the first \$5,000 of composite taxable income, 4% on the next \$5,000 of composite taxable income, and 5% on all composite taxable income in excess of \$10,000.

Once a partnership begins filing a composite return, it must continue unless permission to change is granted in writing by the Commissioner.

TREATMENT OF A QSSS AND/OR SMLLC AND ITS OWNER - INCOME AND FRANCHISE TAXES

A federal election to be treated as a Qualified Subchapter S Subsidiary (QSSS) is considered an election for state purposes and as such the QSSS will be treated the same for state income and franchise tax purposes. Thus the QSSS's activity is treated as a division of its parent S Corporation for federal income tax purposes and will be treated in the same manner for state income and franchise tax purposes. A parent S corporation that is required to file and report for Federal income tax purposes on the activity conducted in Mississippi by its QSSS is considered doing business in Mississippi for both income and franchise tax purposes and shall include the activity of the QSSS when making income and franchise tax return filings to this state. The QSSS will not make separate return filings.

An S corporation, which does not have a QSSS election in effect, will make return filings in the same manner as any other S corporation. An S corporation is subject to the franchise tax and must compute its Mississippi income. Unless a composite return election is in effect, each shareholder will make a filing to this state reporting its Mississippi taxable income and, if a corporation, will make at least the minimum franchise tax payment.

A Single Member Limited Liability Company (SMLLC) that is disregarded for federal reporting purposes will, likewise, be disregarded for state reporting purposes. The SMLLC's activity in this state will be reported by the owner of the SMLLC when making its return filings. A corporate owner of an SMLLC will make income and franchise tax return filings based on its activities and the activities of any disregarded entities. If the owner of the SMLLC is itself an SMLLC or other type of disregarded entity, then such amounts will be reported by the ultimate owners which are not disregarded entities.

INSTRUCTIONS FOR COMPUTING TAXABLE INCOME

Generally, all domestic and foreign Partnerships having income from sources within Mississippi must complete Form 86-122, 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 Partnership occurs within this state, and if by reason of such business activity the Partnership is not taxable in another state, the total net income (loss) of the Partnership is assigned to Mississippi.

Direct or Separate Accounting. A taxpayer with multi-state activities will no longer be able to file income tax returns in this state using separate or direct accounting unless provided by regulation or as otherwise required by the commissioner. Those taxpayers that have been filing without written permission from the commissioner must change to a method of reporting as allowed by regulation. If a taxpayer received written permission prior to January 1, 2001 to report on the direct method of accounting from the commissioner, such taxpayer is required to resubmit for written permission to continue such method. A taxpayer should not assume that permission will be granted to continue reporting using direct accounting.

Apportionment of Business Income. If the business activity in respect to any trade or business of a partnership occurs both within and without this state, and if by reason of such business activity the Partnership 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 Regulation 806 unless prescribed otherwise. In such case, the Partnership 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 partnerships within and without this state in accordance with the provisions of Regulation 806.

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.

INCENTIVE CREDITS

Incentive credits arising at the partnership, LLC or LLP level are passed through to the partners/interest owners based on their percentage of ownership in the entity earning the credit. **As a general rule, the credit passed through to the partner/interest owner can be applied only to the income tax attributable to the partner's/interest owner's income derived from the entity earning the credit.**

In the case of a Mississippi resident who is a partner in a multistate partnership, credits passed through from the partnership may be used to offset only the amount of income tax attributable to the partner's share of partnership income assigned to Mississippi. 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. For an information package containing additional information, please write the Mississippi State Tax Commission, Corporate Tax Division, P. O. Box 1033, Jackson, MS 39215-1033.

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. For a credit to be allowed, 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 or exemption is determined by the classification of the county in which the qualified job is located. The 82 counties are divided into 3 groups. These groups are less developed, moderately developed and developed. Credit is allowed annually for each net new full time job created for 5 years beginning with years 2 through 6 after the creation of the job. Credit is not allowed for a year if the net employment increase falls below the minimum level. The dollar credit per employee and the minimum number of new jobs needed to be created, in a given year, to qualify for this credit is listed below.

County Classification	Avg. Minimum No. of Jobs Created in a Given Year	Dollar Credit Per Job
Tier Three (Less Developed)	10 or More	\$2,000 Annually
Tier Two (Moderately Developed)	15 or More	\$1,000 Annually
Tier One (Developed)	20 or More	\$500 Annually

The number of jobs created is calculated by taking the average level of employment for the given year (taxpayer's reporting period for income tax) less the average level of employment of the prior reporting period (12 months). The Corporate Tax Division should be consulted if short periods are involved. This is the only credit that involves the use of a average increase over the prior year in its calculation. Form 83-450, New Jobs Credit Schedule, must be completed and attached to the return.

National and Regional Headquarters Credit. A credit of \$500, \$1,000, or \$2,000 (dependent upon average annual wage) for each net new full-time employee is allowed for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi and creating a minimum of 35 jobs at the headquarters. The headquarters credit is available to any company regardless of the business in which it engages except for businesses engaged in the transportation, handling, storage, processing or disposal of hazardous waste. The minimum increase of 35 jobs must occur within 1 year.

Research and Development Jobs Skills Credit. Beginning January 1, 2001, this credit increased from \$500 to \$1,000 for those hired after such date. It is authorized for each full-time employee in any new job requiring research and development skills. Specific examples of jobs requiring research and development skills are chemists and engineers. Qualification of other jobs for this credit would require as a minimum a bachelor's degree in a scientific or technical field of study from an

accredited four (4) year college or university, employment in the area of expertise and compensation at a professional level. The research and development job credit is available to any company regardless of the business in which it engages.

A business interested in qualifying for the research and development jobs tax credit should request approval in writing and provide the following information for each individual research and development position: (1) Title, (2) Purpose, (3) Education requirements, (4) Experience requirements, (5) Hours worked per week, (6) Salary or compensation and (7) Expected hire date. The applicant will be notified on approval of the application for credit.

Businesses that employ a person in an approved research and development job for less than their full tax year will be allowed that portion of the yearly credit in the ratio that the number of qualified full months that the employee worked in the state divided by 12.

Child/Dependent Care Credit - An income tax credit is allowed to any employer providing dependent care for its employees during the employee's working hours. The credit allowed is 50% of qualified expenses. This credit can offset 100% of income tax. Any excess credit will not be refunded, but can be carried forward for up to five years. An expense cannot be used both as a deduction and as the basis for a credit. Any expense used in computing the allowable credit cannot be taken as a deduction.

Employers must have their child care program certified by the Department of Health for programs serving children twelve (12) years of age or younger and for programs serving elderly adults and by the State Tax Commission for programs serving other dependents older than twelve (12) years of age. A copy of the certification must be furnished by the taxpayer to the State Tax Commission when the certification is granted. Information can be obtained at the following office: Mississippi State Department of Health, Division of Child Care and Special Licensure, P. O. Box 1700, Jackson, MS 39215-1700.

Basic Skills Training or Retraining Credits. 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 in the aggregate, per employee, over a three-year period. The job training and retraining tax credit shall be in addition to all other tax credits heretofore granted by the laws of this state. This credit stands to be repealed from and after July 1, 2002.

Temporary Assistance to Needy Families Wages Paid Credit. This income tax credit is for employers who hire persons who are receiving Temporary Assistance to Needy Families (TANF) at the date of hire. **This credit was repealed from and after January 1, 1999, no one hired on or after January 1, 1999 will qualify an employer for this credit.** Credit is being allowed for the full 36 months for those employees hired prior to January 1, 1999 who continue to be employed. Any unused credit cannot be carried forward.

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 the 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. For the 1997 tax year and beyond 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, and 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; (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 December 31, 2002 is limited to \$1,200,000. The act is effective January 1, 1994, and shall stand repealed after December 31, 2002.

Reforestation Tax Credit. Beginning in 1999, 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. The lifetime maximum reforestation tax credit that an eligible owner may earn and/or utilize \$10,000 in the aggregate. For a partnership, these limitations apply to the partnership and to each partner. In any taxable year, the credit shall not exceed the lesser of \$10,000 or 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. Any unused portion of the credit may be carried forward to succeeding years. Generally, 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 credit.

General Restrictions on the Incentive Credit. **The only credits whose usage are dependent on another credit are the Export Port Charges Credit and the Reforestation Tax Credit. The Reforestation Tax Credit 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.

Advanced Technology, Enterprise Zone or Corporate Headquarters Facilities Credit are credits that were qualified for prior to July 1, 1989 that are still being used by a few taxpayers. They can offset 100% of the income tax due but they cannot be carried forward.

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 or 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 the 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. This is a departure from prior years instructions. It has been changed due to the fact that a credit may be earned in the current year but may expire prior to being used by the taxpayer, thereby denying the taxpayer a deduction. Also, 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, Basic Skills Training or Retraining, Gaming, TANF (AFDC), Research & Economic Development (RED), Export Port Charges, and Reforestation 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.

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 follow.

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	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	Tallahatchee	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	Out-of-State	83
Issaquena	28	Perry	56		

Lines 1-5c. Check the appropriate boxes and/or provide the information requested.

Line 6a. Enter the amount from Form 86-122, line 15. If 100% of income is assigned to Mississippi, skip lines 6b-15 and enter the amount from line 6a on line 16.

Line 6b. Enter the amount from Form 86-122, line 22. This amount represents adjusted Federal net income or loss for multistate partnerships.

Line 7. Enter the net nonbusiness income or loss from all sources directly allocable **within and without** Mississippi. Attach a schedule detailing the nonbusiness income and expenses attributable thereto.

Line 8. Subtract line 7 from line 6b. This is the amount of multistate business income or loss subject to apportionment.

Line 9. Enter the apportionment ratio from the appropriate line on Form 83-125, Business Income Apportionment Schedule, Part II.

Line 10. Multiply line 8 by line 9. This is Mississippi apportioned business income or loss for multistate taxpayers.

Line 11. If applicable, enter the amount from line 19, Form 83-135, Allocable and Apportionable Capital Gains and Losses.

Line 12. If applicable, enter the amount from line 10, Form 83-140, Sales of Property for Allocable Gain or Loss.

Line 13. Enter the amount from Form 83-124, Direct Accounting Income Statement page 1, line 31 or page 2, line 15, as applicable.

Line 14. Enter the net nonbusiness income or loss directly allocable **within** Mississippi. Attach a schedule detailing the nonbusiness income and expenses attributable thereto.

Line 15. Enter here the net income or loss realized from any other business venture, including gain or loss from a flow-through entity, not reported elsewhere in this return. Attach a schedule detailing income and expenses, or Form K-1, relating to each of the activities reported on this line.

Line 16. Mississippi Taxable Income or Loss. If 100% of income is assigned to Mississippi, enter the amount from line 6a. If multistate, combine lines 10 through 15 and enter the total here.

Line 17. Check the applicable box(es).

Note: If a partnership makes the election provided for in Mississippi Law (Section 27-7-25), an amount equal to 5% of the combined net incomes of both resident and non-resident partners should be withheld and remitted to the Commissioner with Form 86-387, Withholding on Partnership Income.

Instructions for Form 86-122 Computation of Net Taxable Income Schedule

Form 86-122 uses Federal net income as a beginning point. Adjustments for additions to and deductions from Federal net income are required because of the differences in Federal and Mississippi tax laws.

Line 1. Enter the amount of ordinary income or loss from trade or business activities from Federal Form 1065, Page 1.

Line 2. Enter the net amount of the pass-through income or loss items shown on Federal Form 1065, Schedule K.

Line 3. Enter the total amount of pass-through deductions shown on Federal Form 1065, Schedule K.

Line 4. Total Combine Lines 1 and 2, and then subtract Line 3 from the result. This amount represents Federal net income.

State Additions to Income

Line 5. State Income Tax Adjustment Taxes based on income are not deductible. Enter the amount of state, local and foreign government income taxes claimed as a deduction on Form 1065.

Line 6. Interest Adjustment Interest on obligations of states and political subdivisions thereof outside Mississippi is taxable for Mississippi purposes. Enter the amount of interest on obligations of states and political subdivisions thereof (**other than Mississippi**) received by the partnership, **net of expenses**.

Line 7. Depletion Adjustment No deduction is allowed for depletion in excess of the cost basis of the depleting asset. Enter the amount of depletion claimed on Form 1065 in excess of the cost basis of the asset on which the depletion is claimed.

Line 8. Other Additions Add back any other item, the taxability of which is treated differently for Mississippi income tax purposes than was treated for Federal income tax purposes. Itemize here. Attach a schedule if needed. Any increases resulting from 2001 legislative changes would be included.

Line 9. Total Additions Add Lines 5 through 8 and enter total here.

State Deductions from Income

Line 10. Exempt Interest Interest received on U. S. Government obligations is not taxable to Mississippi. Enter the amount of such interest reported as income on Form 1065, **net of expenses**.

Line 11. Wages Adjustment Federal income tax laws allow certain employment tax credits based on wages paid to employees, and a portion of the wages on which the credit was based is not allowed as a deduction. Mississippi does not allow these credits. Enter the amount by which wages were reduced on the Form 1065 by employment tax credits (such as the Targeted Jobs Credit).

Line 12. Enter the amount of gain that is subject to nonrecognition under Section 27-7-9(f)(10) that is included in Line 2 above. Certain long term capital gains from the sale of stock in domestic (Mississippi) corporations, or interests in domestic limited partnerships or domestic limited liability companies is exempt from income tax. **Attach Form 83-135.**

Line 13. Other Deductions Deduct any other item which is treated differently for Mississippi income tax purposes than was treated for Federal income tax purposes. Itemize here. Attach schedule if needed.

Line 14. Total Deductions Add Lines 10 through 13 and enter total here.

Line 15. Net Income or Loss for State Purposes Line 4 plus Line 9; minus Line 14.

Note: The amount on Line 15 represents the amount taxable to resident partners even if a multistate partnership return is filed. If you are a 100% Mississippi taxpayer (as opposed to multistate), skip Lines 16 through 22 and enter the amount shown on Line 15 on Page 1 Line 6a. **Multistate taxpayers should complete Lines 16 – 22, when appropriate, for apportionment purposes.**

Line 16. Add: Allocable Part of Net Loss from Federal Form 4797 Enter the portion of the net loss which is allocable, if any, shown on Page 1, Federal Form 1065. This adjustment is necessary because Form 83-140 must be used to report these transactions for Mississippi purposes. See Form 86-105, Page 1, Line 12.

Line 17. Add: Net Capital Loss (If Applicable) Enter the portion of the capital loss which is allocable, if any, from Federal Form 1065, Schedule K. This adjustment is necessary because Form 83-135 must be used to report these transactions for Mississippi purposes. See Form 86-105, Page 1, Line 11.

Line 18. Add: Net Loss under Section 1231 (If Applicable) Enter the portion of the loss which is allocable, if any, from Federal Form 1065, Schedule K. This adjustment is necessary because Form 83-140 must be used to report these transactions for Mississippi purposes. See Form 86-105, Page 1, Line 12.

Line 19. Deduct: Allocable Part of Net Gain from Federal Form 4797 Enter the portion of the net gain which is allocable, if any, shown on Page 1, Federal Form 1065. This adjustment is necessary because Form 83-140 must be used to report these transactions for Mississippi purposes. See Form 86-105, Page 1, Line 12.

Line 20. Deduct: Net Capital Gain (If Applicable) Enter the portion of the net capital gain which is allocable, if any, from Federal Form 1065, Schedule K (less amount shown on line 12 above). This adjustment is necessary because Form 83-135 must be used to report these transactions for Mississippi purposes. See Form 86-105, Page 1, Line 11.

Line 21. Deduct: Net Gain under Section 1231 (If Applicable) Enter the portion of the gain which is allocable, if any, from Federal Form 1065, Schedule K. This adjustment is necessary because Form 83-140 must be used to report these transactions for Mississippi purposes. See Form 86-105, Page 1, Line 12.

Line 22. Adjusted Federal Form 1065 Income or Loss for Multistate Partnerships (Line 15, plus Lines 16 through 18, minus Lines 19 through 21) Enter the result here and on Form 86-105, Page 1, Line 6b.

Mississippi Schedule K-1 The amounts to be shown on the Mississippi Schedule K-1 should represent Mississippi income and/or deductions. Due to the differences in treatment of various elements of income, expenses, and/or credits for federal and state purposes, the amounts shown on the Mississippi K-1 will not necessarily be the same amounts as shown on the federal K-1. Determination of the amounts to be reported on the Mississippi K-1 should be made using the same method of computation as used for determining amounts shown on the federal K-1.

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, 85-122 and 86-122 is 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.

Law Changes effective January 1, 2001

Arms-Length Transactions. Compliance with IRC Section 482 is not a safe harbor for determining whether a transaction is considered arms-length for state tax purposes. The chairman will consider whether the transaction:

1. is in compliance with IRC Section 482.
2. is for a valid business purpose.
3. results in the shifting of income to another state where the income bears a tax.
4. is consistent with the results that would have been realized if uncontrolled taxpayers had engaged in the same transaction under the same circumstances.
5. represents a shifting of income to avoid the state income tax, as supported by other information.

Installment Sales - Casual Sale of Property. 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.

Business Income . The definition of "business income" was revised to clarify and delineate both the "transactional" and "functional" relationship tests.

Deductibility of Intangible Expenses and Costs and Related Interest Expenses Incurred with Certain Related Members. A taxpayer will be required to add back 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 and costs and 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.

Direct or Separate Accounting Method. A taxpayer with multi-state activities will no longer be able to file income tax returns in this state using separate or direct accounting unless provided by regulation or as otherwise required by the commissioner. Taxpayers that have been filing without written permission from the commissioner must change to a method of reporting as allowed by regulation. If a taxpayer received written permission prior to January 1, 2001 to report on the direct method of accounting from the commissioner, such taxpayer is required to resubmit for written permission from the commissioner to continue such method. A taxpayer should not assume that permission will be granted to continue reporting using direct accounting.

Franchise Tax Apportionment Ratio. (For Tax Years Ending on or after December 31, 2001). A multistate corporation will include its portion of the property and receipts of any flow-through entities (a partnership for example) in which it holds an interest when computing the apportionment ratio to be applied to the total capital base.

Also, it will include its portion of the assessed value of any real and tangible personal property from flow-through entities when determining the corporation's taxable capital.

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