Chapter 01 Definitions

100 “Gross income” means all income from whatever source derived, unless excluded by law and includes income realized in any form, whether in money, property or services. Gross income includes compensation for personal and professional services, wages, fees, business income, profits from sales, rentals and dealings in property, interest, dividends and gains, profits and income derived from any source whatever, including income from governmental agencies and subdivisions thereof, annuities, reacquired property, securities, insurance premiums, reinsurance premiums, considerations for supplemental insurance contracts, transactions of any business carried on within the state for gain or profit, income from intangibles if such property has acquired a business, commercial or actual situs in this state, a partner's distributive share of partnership gross income, income in respect of a decedent, and income from an interest in an estate or trust unless exempt or otherwise excluded, in whole or in part, from tax by law. Gross income, however, is not limited to the items so enumerated. In the case of a taxpayer reporting net income under this act on a basis of receipts and disbursements, there should be included in gross income only actual and constructive receipts of income. Taxpayers reporting on the accrual basis must include in gross income amounts received by them or accrued to them.

101 In a manufacturing, merchandising or mining business, "gross income" means the total sales, less the cost of goods sold, plus any income from investments and from incidental or outside operations or sources.

102 “Net income” means gross income less allowable business expenses. The business deductions are in general, though not exclusively, expenditures, other than capital expenditures, in connection with the production of income.

103 “Taxable income” with respect to individuals, estates and trusts, means total gross income less allowable expenses incurred in connection with the taxpayer's trade or business, allowable personal deductions and applicable personal and additional exemptions. Taxable income with respect to corporations, associations and partnerships, means total gross income less allowable expenses and contributions.

104 “Domestic taxpayer”, when applied to any corporation, association, and partnerships, means created, organized or domesticated under the laws of the State of Mississippi. The fact that a domestic taxpayer moves its principal place of business without the state does not preclude its classification as a domestic organization for income tax purposes.

105 “Foreign taxpayer”, when applied to any corporation or association, including partnerships, means created or organized under the laws of a state other than Mississippi. The fact that a foreign taxpayer carries on its business or occupation in Mississippi does not set aside the foreign construction of the corporation, association or partnership.

106 The term "farm" embraces the farm in the ordinary accepted sense, and includes, but is not limited to stock, dairy, poultry, fish, fruit and truck farms; also plantations, and all land used for farming operations. All individuals, partnerships or corporations that cultivate, operate
or manage farms for gain or profit, either as owners or tenants, are designated as farmers. A fish farm is an area where fish are grown or raised, as opposed to merely caught or harvested; that is, an area where they are artificially fed, protected, cared for, etc.

A taxpayer is engaged in the “business of farming” if he cultivates, operates or manages a farm for gain or profit, either as owner or tenant. A taxpayer who receives a rental (either in cash or in kind) which is based upon farm production is engaged in the business of farming. However, a taxpayer who receives a fixed rental (without reference to production) is engaged in the business of farming only if he participates to a material extent in the operation or management of the farm. A person cultivating or operating a farm for hobby, recreation or pleasure rather than a profit is not engaged in the business of farming.

(Reserved)

35.III.1.01 revised effective July 1, 2018
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106 Farm. The term "farm" embraces the farm in the ordinary accepted sense, and includes, but is not limited to stock, dairy, poultry, fish, fruit and truck farms; also plantations, and all
land used for farming operations. All individuals, partnerships or corporations that cultivate, operate or manage farms for gain or profit, either as owners or tenants, are designated as farmers. A fish farm is an area where fish are grown or raised, as opposed to merely caught or harvested; that is, an area where they are artificially fed, protected, cared for, etc.

107 **Business of farming.** A taxpayer is engaged in the “business of farming” if he cultivates, operates or manages a farm for gain or profit, either as owner or tenant. A taxpayer who receives a rental (either in cash or in kind) which is based upon farm production is engaged in the business of farming. However, a taxpayer who receives a fixed rental (without reference to production) is engaged in the business of farming only if he participates to a material extent in the operation or management of the farm. A person cultivating or operating a farm for hobby, recreation or pleasure rather than a profit is not engaged in the business of farming.

108 **Employee.** The term "employee" includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term includes officers and employees, whether elected or appointed, of the United States, a state, or any political subdivision thereof, or any agency or instrumentality of any one of the foregoing.

1. Generally the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work, but also as to the details and means by which that result is accomplished.

2. That is, an employee is subject to the will and control of the employer not only as to what shall be done, but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer.

3. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is not an employee.

4. If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, independent contractor or the like.

5. All classes or grades of employees are included with the relationship of employer and employee. Thus, superintendents, managers, and other supervisory personnel are employees. Generally, an officer of a corporation is an employee of the corporation. However, an officer of a corporation who as such does not perform any services or performs only minor services and who neither receives nor is entitled to receive, directly or indirectly, any remuneration, is not considered to be an employee of the corporation. A director of a corporation in his capacity as such is not an employee of the corporation.

109 **Employer.** The term "employer" means any person for whom an individual performs or has performed any service, of whatever nature, as the employee of such person.
1. It is not necessary that the services be continuing at the time the wages are paid in order that the status of the employer exist. Thus, for the purposes of withholding, a person for whom an individual has performed past services for which he is still receiving wages from such person is an "employer."

2. An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture or other unincorporated organization, group or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer.

3. The term "employer" embraces not only individuals and organizations engaged in trade or business, but organizations exempt from income tax, such as religious and charitable organizations, educational institutions, clubs, social organizations and societies, as well as the government of the United States, the State of Mississippi, counties, municipalities, their agencies, instrumentalities and political subdivisions.