2017 TAX CUTS & JOBS ACT

How Selected New Federal Provisions Will Affect Current Comparable
Mississippi Tax Law Provisions

*By Alveno N. Castilla, Esq.**

On Dec. 22, 2017, the 2017 Tax Cuts and Jobs Act (the "Act"), was signed into law, putting in place the most comprehensive set of changes to the Internal Revenue Code since 1986. The following analysis highlights most of the new domestic provisions and summarizes their expected treatment for Mississippi income tax purposes, assuming that current Mississippi law, regulations, policies and interpretations remain in effect. However, it is possible that for those areas where there is no clear statutory or regulatory guidance, the Mississippi Department of Revenue ("MDOR") may take a different policy position from what is stated below. This is, of course, only a summary and reference should be made to the actual language of the Act or the Mississippi rules, as the case may be, if more clarity is desired.

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Glossary of Key Defined Terms

"Act" means the 2017 Tax Cuts and Jobs Act (P.L. No. 115-97, Dec. 22, 2017).
"DB" means declining balance.
"FTI" means federal taxable income.
"IRC" means the Internal Revenue Code of 1986, as amended.
"MCA" means Miss. Code Annotated of 1972, as amended.
"MDOR" means the Mississippi Department of Revenue.
"MS" means the State of Mississippi.
"PPIS" means property placed in service.
"P/S" means partnership.
"PCM" refers to the percentage of completion method.
"Reg." means the MDOR Rules and Regulations, Title 35, Mississippi Administrative Code.
"UBTI" means unrelated business taxable income.

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INDIVIDUAL PROVISIONS		
1. Modification of Individual Income Tax Rates	Provides for some temporary reductions and inflation indexing of bracket thresholds beginning in 2018.	No effect; Mississippi ("MS") income tax rates not tied to federal rates.
2. Alternative Minimum Tax for Individuals	AMT exemption amounts and phaseout thresholds are temporarily increased beginning in 2018.	No effect; MS does not have an AMT provision, nor is any other income tax provision tied to the federal individual AMT.
3. Individual Return Filing Thresholds; Increase in Standard Deduction; Repeal of Personal Exemptions	(a) Generally, for tax years 2018-2025, the filing thresholds increase to $24,000 for MFJ, $12,000 for single filers, and $18,000 for heads of households (other levels apply when factoring in over 65, blind, surviving spouse, etc.); (b) The personal exemption deduction is eliminated for tax years 2018-2025.	No effect; Neither MS filing thresholds nor MS personal exemptions are not tied to federal filing benchmarks or personal exemption amounts.
4. Self-Created Property as Capital Assets	Relates to dispositions of patents, inventions, designs, secret formulas or processes disposed of after 2018. Such assets are not treated as capital assets in the hands of persons who self-created them.	No effect; Although MS follows federal definitions and classifications (i.e., capital v. non-capital) of assets when determining the amount of long-term and short-term gains and losses, MS applies the same tax rates to all income whether ordinary or capital in nature. (see Miss. Code Ann. of 1972, as amended ("MCA") §§ 27-7-5 & 27-7-101 and MDOR Income Tax Technical Bulletin TB 80-501-09-2).
5. Affordable Care Act's Individual Health Insurance Mandate	The penalty imposed on individuals without health insurance is eliminated for months beginning after 12/31/2018.	No effect.
6. Qualified Opportunity Zones and Reinvestment of Capital Gains in Qualified Opportunity Zones	Provisions added to create "qualified opportunity zones," which are low-income community census tracts as defined under the new markets tax credit ("NMTC") law. New	No effect; MS does not currently have a similar provision. It remains to be seen if MS will enact any sort of similar incentive as it did to mirror the federal NMTC program.

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	law allows gross income deferral, for some period of time, of certain capital gains that are reinvested in a "Qualified Opportunity Fund," along with the possibility of complete exclusion of 15% of the initial deferral if the investment in the QOF stays in place at least 7 years. If the reinvestment stays in the QOF for at least 10 years, taxpayers can also exclude from income the appreciation on their investment in the QOF.	
7. Deduction of State and Local Taxes by Individuals	For tax years 2018 through 2025, an individual may claim an itemized deduction on Sch. A of Form 1040 of up to only $10,000 ($5,000 for married filing separate) for the aggregate of: (a) state and local real property taxes; (b) state and local personal property taxes; and (c) state and local income taxes, as well as state and local sales taxes deducted in lieu of state and local income taxes. This limitation does not apply to taxes paid or accrued in carrying on a trade or business or on property held for the production of income.	Generally, MS law allows the same itemized deductions as federal law, with the exception that no deduction is allowed for Mississippi state and local income taxes. Thus, to the extent the new federal $10,000 limitation includes Mississippi income taxes, there is no effect on the amount of MS itemized deductions since those taxes were not deductible anyway. However, MS law will follow the new federal ceiling amount and limit this itemized deduction of combined real and personal property taxes to $10,000 (or $5,000, if applicable). This new ceiling, if applicable to given cases, will increase MS taxable income.
8. Home Mortgage Interest Deduction	(a) For tax years 2018-2025, the itemized deduction for home mortgage interest is limited to interest on new mortgages of up to $750,000. (b) For tax years 2018-2025, taxpayers cannot claim an itemized deduction for interest on	Federal income tax limitations with regard to individual interest expense apply fully to MS income tax. Accordingly, the new federal limitations will apply for MS tax purposes and, if applicable to given cases, will increase MS taxable income.

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	home equity debt.	
9. Medical Expense Itemized Deduction	For tax years 2017 and 2018, the threshold for deduction of medical expenses is reduced from 10% to 7.5% of AGI.	MS generally follows federal law in this respect. Accordingly, MS taxpayers will benefit from this lower threshold for the 2 years.
10. Modifications to Charitable Contribution Deduction	(a) For contributions by individuals made in tax years 2018-2025, the 50% limitation for cash contributions to public charities and certain private foundations is increased to 60%. Contributions exceeding the 60% limitation are generally allowed to be carried forward and deducted for up to 5 years, subject to the later year's ceiling. (b) The provision relieving a donor from the requirement to obtain a contemporaneous written acknowledgment for any charitable contribution of $250 or more if the donee organization reports the required information to the IRS is repealed. A donor who makes a contribution of $250 or more in 2017 or a later tax year cannot take a charitable deduction unless the donor substantiates the donation with a contemporaneous written acknowledgment from the donee. (c) For contributions made in tax years beginning after 2017, no charitable deduction is allowed for any payment to an institution of higher education in exchange for which the payer receives the right to purchase tickets or seating at an athletic event.	*(a) For individuals:* The MDOR instructions for "Gifts to Charity" (Line 5 of Form 80-108, Itemized Deductions Schedule (2017)), state that: "You can deduct what you gave to organizations that are religious, charitable, educational, scientific, or literary in purpose. The amounts you deduct are subject to the federal limitations. Enter amount from Federal Form 1040, Schedule A." Accordingly, the federal law changes made by the Act will be followed for MS tax purposes. *(b) For corporations:* Based on MCA § 27-7-17(1)(h), Reg. 35.III.8.04 states that MS law "does not conform with Federal Law relative to the percentage limitation on contributions by corporations, or with the definition of a charitable contribution by a corporation." Accordingly, any of the changes made by the Act in this area will not affect the current MS law treatment with respect to corporate charitable contribution deductions—specific MS law provisions will continue to govern. Thus, it appears that for MS income tax purposes, charitable deductions will still be allowed for contributions having an athletic event-related element if the requirements of

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		MCA § 27-7-17(1)(h) are otherwise met.
11. Deduction for Personal Casualty & Theft Losses	For tax years 2017-2025, the personal casualty and theft loss deduction is suspended, except for personal casualty losses incurred in a federally-declared disaster. However, where a taxpayer has personal casualty gains, the loss suspension doesn't apply to the extent that such loss doesn't exceed the gain.	In MS, a casualty or theft loss is computed on the same basis and subject to the same limitations as under federal law. Thus, these new provisions will come into play for MS income tax purposes. The suspension of the deduction, in applicable cases, will increase MS taxable income.
12. Modification of Gambling Loss Limitation	For tax years beginning after 12/31/2017 and before 1/1/2026, the limitation on wagering losses under (IRC § 165(d)) is modified to provide that all deductions for expenses incurred in carrying out wagering transactions, and not just gambling losses, are limited to the extent of gambling winnings.	No effect. MS does not allow gambling losses as an itemized deduction so the determination of the federal limitation is of no significance. MS gambling winnings reported on W2G or a Form 1099 are subject to a 3% non-refundable income tax.
13. Miscellaneous Itemized Deductions Temporarily Repealed	All miscellaneous itemized deductions that are subject to the 2% of AGI floor are suspended for tax years 2018 - 2025.	MS law allows miscellaneous itemized deductions subject to the 2% AGI floor as computed for federal income tax purposes. Federal suspension of these deductions will result in the deductions likewise being eliminated for MS purposes, thereby potentially increasing MS taxable income.
14. Suspension of Overall Limitation on Itemized Deductions	For tax years 2018 – 2025, the overall limitation on itemized deductions is suspended.	MS imposes a limit on MS itemized deductions, where the calculation of such limit begins with total federal itemized deductions. Since the federal ceiling on itemized deductions will be temporarily removed, the MS itemized deduction ceiling should similarly be removed. (However, the adjustments to overall federal itemized deductions for state income taxes and gambling losses will still apply.)

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15. Repeal of Deduction for Alimony & Separate Maintenance Payments	For any divorce or separation agreement executed after 12/31/2018, or executed before that date but modified afterwards (if the modification expressly provides that the new amendments apply), alimony and separate maintenance payments are generally not deductible by the payor spouse and are not included in the income of the payee spouse.	MS follows federal law in determining the deductibility and taxability of alimony payments, so the same results will obtain on both the payer and recipient sides when the federal change takes effect. (MCA § 27-7-15(2)(e)).
16. Suspension of Moving Expenses Deduction	For tax 2018—2025, the deduction for moving expenses is suspended, except for members of the Armed Forces on active duty who move pursuant to a military order and incident to a permanent change of station.	MS follows federal law. Federal suspension of these deductions will result in the deductions likewise being eliminated for MS purposes, thereby potentially increasing MS taxable income in applicable cases. (MCA § 27-7-18(2)).
17. Discharge of Debt Income from Student Loans	The exclusion from income of the discharge of indebtedness for certain student loans is expanded to include discharges due to the student's death or total and permanent disability. This new exclusion applies to income from debt discharges of an eligible loan occurring after 12/31/2017, and before 1/1/2026.	MS should follow the federal law provisions and allow a similar income exclusion. (This would fall under "Other Income" on the MS return, and there does not appear to be a MS provision that would call for different treatment from federal.)
18. Repeal of Certain Rollovers of Capital Gain from Publicly Traded Securities	Under prior IRC § 1044(a), individuals and C corporations could elect to roll over any realized gain on the sale of publicly traded securities if the proceeds were reinvested into a specialized small business investment company "SSBIC") within 60 days from the date of the sale. Therefore, any portion of the realized gain that met the nonrecognition requirements of Sec. 1044 were deferred until the SSBIC shares or interests were later sold.	As noted above, MS generally follows federal rules concerning computation of capital gains and losses, so presumably, MS would have recognized IRC § 1044(a) elections and allowed tax-free rollovers. Therefore, MS will follow the federal law repeal, with the result that after 2017, such capital gains that are rolled over will nevertheless be taxed by MS in the year of sale.

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	The Act repeals this election for any sales after 12/31/2017.	
19. Increase in Child Tax Credit	For tax years 2018—2025, the child tax credit is increased to $2,000, and other changes are made to phase-outs and refund provisions during this same period. The earned income threshold for the refundable portion of the credit is decreased and no credit will be allowed with respect to any qualifying child unless the child's SSN is provided.	No effect; MS law does not provide for an individual child care credit based on federal law.
20. Deductibility of Living Expenses for members of Congress	For tax years beginning after 12/22/17, members of Congress may no longer claim the deduction for up to $3,000 per year of living expenses incurred while on official business in Washington, D.C.	Presumably, these expenses were previously deductible as general business-related expenses under Reg. 35.III.5.01(100), or as "Other Business Deductions" under Reg. 35.III.5.08(100), with MS following federal law. They will no longer be deductible on MS returns due to the changes made by the Act.
BUSINESS, CORPORATE AND PASS-THROUGH ENTITY PROVISIONS		
21. Corporate Tax Rates Reduced	For tax years beginning after 12/31/2017: (a) corporate taxable income is taxed at a flat rate of 21%, and (b) the dividends-received deduction percentages are reduced: the 80% DRD is reduced to 65%, and the 70% DRD is reduced to 50%.	The change to the federal rates will not affect the MS rates. MS follows federal treatment of DRDs by recognizing the effect of DRDs as incorporated into the calculation of MS net taxable income. The computation of MS net taxable income begins with federal taxable income ("FTI") and calls for various MS adjustments to this figure; none of the adjustments, however, affect the treatment of the federal DRD. Accordingly, it appears that the reductions in the DRD percentages will

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		have the effect of increasing MS net taxable income in applicable cases since FTI will be increased.
22. AMT for Corporations is Repealed	This provision became obsolete in light of the new 21% flat tax and is repealed for tax years beginning after 12/31/2017.	No effect.
23. Change in Definition of Contribution to Capital	In applying the general rule under IRC § 118(a) that excludes from a corporation's gross income any contributions to capital, contribution to capital does not include: (a) any contribution in aid of construction or any other contribution as a customer or potential customer, and (b) any contribution by any governmental entity or civic group (other than a contribution made by a shareholder as such). Applies generally to contributions made after 12/22/2017.	The MS net taxable income computation for corporations begins with FTI before NOLs and certain special deductions. Then certain additions and deductions are made to the adjusted FTI number; none of these additions and deductions include IRC § 118(a) adjustments, so the FTI starting number, and therefore the MS net taxable income number will be higher. In summary: The change in federal law here will increase MS net taxable income.
24. New Deduction for Portion of Passthrough Business Income	This is a complicated new provision (new IRC § 199A), that will also be in effect for tax years beginning after 12/31/2017 and before 1/1/2026. This provision allows noncorporate taxpayers to deduct up to 20% of certain domestic "qualified business income" that passes through from a partnership, S corporation, or sole proprietorship. The deduction generally cannot exceed the greater of (1) 50% of W-2 wages paid by the business, or (2) the sum of 25% of the W-2 wages paid, plus 2.5% of the unadjusted basis of certain property the business uses to produce qualified business income. This limit may be phased-in or eliminated if the taxpayer's taxable income	MCA § 27-7-17 makes provision for the allowance of a variety of deductions in the computation of taxable income. The overriding principles for deductibility of business expenses is stated in Reg. 35.III.5.01(106): "The following requirements determine whether a particular item of expense is deductible as a business expense: It must be incurred in a trade or business carried on by the taxpayer. This excludes all personal expenses as well as expenses sustained in earning income, but not arising from a trade or business." Section 108 of this same regulation says that: "The expenses must be ordinary, necessary and reasonable. To the extent that

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	meets certain threshold requirements. The deduction does not apply to certain "specified service trades or businesses" (i.e., those that involve the performance of services in the fields of accounting, actuarial science, athletics, brokerage services, consulting, financial services, health, law, or the performing arts; or that involve the performance of services consisting of investing and investment management, trading, or dealing in securities, partnership interests, or commodities; or whose principal asset is the reputation or skill of one or more of its employees or owners, but excluding engineering and architecture. However the service business limitation begins phasing out in the case of a taxpayer whose taxable income exceeds $315,000 for married individuals filing jointly ($157,500 for other individuals), both indexed for inflation after 2018. The benefit of the deduction for service businesses is phased out over the next $100,000 of taxable income for joint filers ($50,000 for other individuals). The deduction also does not apply to the trade or business of being an employee. For individual taxpayers, this new deduction is not allowed in determining AGI, but rather is an after-AGI deduction that reduces taxable income. Further, it is not an itemized deduction, but it is available to individuals who itemize deductions and to those who claim the standard deduction. A	an expense is unreasonable, it is not necessary and will not be allowed as a deduction." Reg. 35.III.5.08 (100), Other Business Deductions, provides, in relevant part: "The Commissioner will follow Federal Rules, Regulations and Revenue Procedures relating to the following business deductions to the extent that such procedures are deemed not contrary to the context and intent of Mississippi Law." This regulation goes on to list some 33 specific business deductions (all in the nature of operating expenses) that could be applicable to noncorporate taxpayers. Similarly, MCA § 27-7-15 and the related regulations under Reg. 35.III.4.01, list specific adjustments to MS gross income and none of those adjustments contemplate an adjustment to or exclusion from income for a portion of passthrough income as provided by the new federal provision. There is no general proviso in the MS statute or the regulations which states that MS will follow federal law, rules and regulations with respect to this type of new deduction. Considering the nature and context of new IRC § 199A, we are of the opinion that there is nothing in existing MS law that suggests that MS would naturally or automatically be constrained to follow the new federal passthrough deduction rules and believe that it is unlikely that MDOR would do so in the absence of specific statutory authority.

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	similar 20% deduction is available for agricultural or horticultural cooperatives. The new deduction applies to tax years beginning after 12/31/2017, and before 1/1/2026.	
25. New Holding Period Requirement Affecting Carried Interests	Effective for tax years beginning after 12/31/2017, the Act effectively imposes a 3-year holding period requirement in order for certain partnership interests received in connection with the performance of services to be taxed as long-term capital gain. If the 3-year holding period is not met with respect to an applicable partnership interest held by the taxpayer, the taxpayer's gain will be treated as short-term gain taxed at ordinary income rates.	No effect; MS does not recognize or follow the federal capital gain rates.
26. New Limitations on Excess Business Losses	Excess business losses of noncorporate taxpayers are not allowed for tax years beginning after 12/31/2017, and before 1/1/2026. Any excess business loss that is disallowed is treated as a net operating loss ("NOL") carryover to subsequent years. This limitation applies after application of the passive loss rules of IRC § 469. An "excess business loss" is the excess, if any, of: (a) the taxpayer's aggregate deductions for the tax year from the taxpayer's trades or businesses, determined without regard to whether or not such deductions are disallowed for such tax year under the excess business loss limitation; over (b) the sum of: (i) the taxpayer's aggregate gross income or gain for the tax year from such trades or businesses, plus (ii) $250,000, adjusted for inflation	MCA § 27-7-17(1)(d)(i) provides that losses sustained during the taxable year not compensated for by insurance or otherwise, if incurred in a trade or business, or nonbusiness transactions entered into for profit, are deductible. The guidelines for deductibility of business expenses are set forth in Reg. 35.III.5.01(100-106), with the key test being ordinary and necessary in connection with a trade or business of the taxpayer. In addition, all of the expenses on the list of 33 specific business deductions (all in the nature of operating expenses) in Reg. 35.III.5.08 (100) that could be applicable to noncorporate taxpayers could contribute to or generate an overall business loss. Such a loss could, in turn, result in an "excess business loss" within the meaning of new IRC § 461(l).

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	(200% of the $250,000 amount in the case of a joint return).	Considering (a) all of this authority, particularly the statutory authority that does not impose a limitation on deductibility of losses (other than observing the limitations on losses from passive activities and rental real estate, where the federal rules are to be followed (see MCA § 27-7-17(1)(d)(ii)), and (b) that there is no explicit directive to follow the federal rules with respect to losses, MS should not follow federal law and impose a limitation on "excess business losses."
27. Interest Deduction Limitation	The Act limits the deduction for interest paid or accrued on a debt incurred in a trade or business regardless of the form the taxpayer's business (i.e., corporation, partnership, sole proprietorship, etc.), effective for tax years beginning after 12/31/2017. This new limitation does not apply to a small business with average gross receipts of $25 million or less. Any interest not deductible generally may be carried forward indefinitely to succeeding tax years, subject to certain restrictions for partnerships and S corporations. The deduction limitation calculation for a given year is: The sum of: (a) business interest income for the tax year; (b) 30% of the taxpayer's adjusted taxable income for the	MCA § 27-7-17(1)(b) allows a deduction for "[a]ll interest paid or accrued during the taxable year on business indebtedness," with some exceptions not relevant here. However, Reg. 35.III.5.08 (100) (Item 23) lists interest paid as a deduction with respect to which MDOR will follow federal law and regulations to the extent they are not deemed contrary to the context and intent of MS law. This sets up an interesting paradox where by the MS statute specifically says that all interest is deductible, while the regulations might give MDOR authority to follow the new federal limitation. Since this limitation would potentially increase MS taxable income and for corporate taxpayers be an easy flow-through because the starting point of federal taxable income will have already taken this limitation into account,

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	year, including any increases in adjusted taxable income as a result of a distributive share in a partnership or S corporation, but not below zero; and (c) floor plan financing interest of the taxpayer for the tax year.	there is the possibility that MDOR will want to follow the new federal law provision. However, the federal provision is certainly arguably contrary to the context and intent of MS law which is plain as to how interest expense is to be treated.
28. Changes to Net Operating Loss Rules	For NOLs arising in tax years ending after 12/31/2017, the 2-year carryback and the special carryback provisions are repealed, but a 2-year carryback applies in the case of certain losses incurred in the trade or business of farming. For losses arising in tax years beginning after 12/31/2017, the NOL deduction is limited to 80% of taxable income (determined without regard to the deduction). Carryovers to other years are adjusted to take account of this limitation, and generally NOLs can be carried forward indefinitely. Note, however: NOLs of property and casualty insurance companies can be carried back 2 years and carried over 20 years to offset 100% of taxable income in such years.	No effect on existing MS law. Per MCA § 27-7-17(l), for any taxable year ending after 12/31/2001, the period for MS NOL carrybacks and NOL carryovers is 2 years back and 20 years forward. The taxpayer is required to make an election to carryback or carryover the MS NOL regardless of the federal election; however, once this election is made, it cannot be revoked. Since MS NOL treatment already differed from federal carryback and carryover provisions (by a specific statute and specific highlighting in the corporate return instructions) that preceded the Act, there is no reason to believe that MS will change its current NOL treatment to conform to the Act.
29. Repeal of Domestic Production Activities Deduction	Under prior federal law, qualifying businesses could claim a deduction under IRC § 199 based on 9% of their qualified production activities income. The deduction was also limited to 50% of certain W-2 wages. This deduction was intended to provide tax incentives for businesses that produce most of their goods or work in the U.S. rather than sending that work overseas—also referred to	Mississippi had not specifically adopted IRC §199. Therefore, the federal repeal will not affect Mississippi taxpayers.

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	as the domestic manufacturing deduction, even though it covered broader business activities. The Act repeals this deduction for tax years beginning after 12/31/2017.	
30. New Limits on Employer's Deduction for Entertainment, Commuting Benefits, and Meals	(a) For amounts incurred or paid after 12/31/2017, deductions for entertainment expenses are disallowed, eliminating the subjective determination of whether such expenses are sufficiently business related; (b) the current 50% limit on the deductibility of business meals is expanded to meals provided through an in-house cafeteria or otherwise on the premises of the employer; and (c) deductions for employee transportation fringe benefits (e.g., parking and mass transit) are eliminated, but the exclusion from income for such benefits received by an employee is retained. (d) In addition, no deduction is allowed for transportation expenses that are the equivalent of commuting for employees (e.g., between the employee's home and the workplace), except as provided for the safety of the employee. (e) For tax years beginning after 12/31/2025, the Act disallows an employer's deduction for expenses associated with meals provided for the convenience of the employer on the employer's business premises, or provided on or near the employer's business premises through an employer-operated facility that meets certain requirements.	(a) Reg. 35.III.5.08 (100) (Item 16), provides that MDOR will follow federal rules relating to entertainment expenses. Accordingly, MS will disallow entertainment deductions following the federal effective date, with the result that this will potentially increase MS taxable income. (b) Similarly, Reg. 35.III.5.08 (100) (Item 15), provides that MDOR will follow federal rules relating to employee benefits. Accordingly, MS will disallow adopt the new federal limitations following the federal effective date, with the result that the decreased deductibility of the other employee fringe benefits described in (b)-(c) will potentially increase MS taxable income.
31. Amendment to Provisions on	(a) For amounts generally paid or incurred on	Reg. 35.III.5.08 (100) (Item 22) lists fines and

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Deductibility of Fines and Penalties	or after 12/22/2017, no deduction is allowed for any otherwise deductible amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or specified non-governmental entity with respect to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law. An exception applies to payments that the taxpayer establishes are either restitution (including remediation of property) or amounts required to come into compliance with any law that was violated or involved in the investigation or inquiry, that are identified in the court order or settlement agreement as restitution, remediation, or required to come into compliance. The IRS can still challenge the characterization of an amount so identified; however, no deduction is allowed unless the identification is made. (b) Government agencies (or entities treated as such) must report to IRS and to the taxpayer the amount of each settlement agreement or order entered into where the aggregate amount required to be paid or incurred to or at the direction of the government is at least $600 (or such other amount as may be specified by IRS). The report must separately identify any amounts that are for restitution or remediation of property, or correction of noncompliance. The report must be made at the time the	penalties as deductions with respect to which MDOR will follow federal law and regulations to the extent they are not deemed contrary to the context and intent of MS law. Accordingly, this new limitation on deductions will potentially increase MS taxable income. It is not clear, but presumably MS will expect to obtain from the governmental agencies reporting that is similar to what the IRS will receive.

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	agreement is entered into.	
32. No Deduction for Amounts Paid for Sexual Harassment Subject to Nondisclosure Agreement	For amounts paid or incurred after 12/22/2017, deductions are prohibited for any settlement or payment related to sexual harassment or sexual abuse if the settlement is subject to a nondisclosure agreement. Attorney's fees related to such payments or agreements are also not deductible. (Added by the Act as new IRC §162(q).)	Neither the MCA nor the MS income tax regulations specifically address the deductibility of these sorts of payments. Presumably, they were previously deductible to the extent that they were deductible for federal income tax purposes. Now that there is a new federal limitation in effect and taking into account the general provision in Reg. 35.III.5.01 that circumscribes the deductibility of business expenses generally, it is likely that MS will follow the new federal law limitation.
33. Deduction for Local Lobbying Expenses Eliminated	For amounts paid or incurred on or after 12/22/2017, the Act eliminates the deduction (previously allowed under IRC §162(c)), for lobbying expenses with respect to legislation before local government bodies (including Indian tribal governments).	Reg. 35.III.5.02(100) provides, in relevant part, that a taxpayer may take a business expense deduction for expenses "paid or incurred … in direct connection with an appearance before, submission of statements to, or sending communications to, Congressional Committees or legislative bodies of states, U. S. possessions, etc., in regard to legislation of direct interest to the taxpayer...." Since local government bodies were already excluded from the group for which lobbying expenses were deductible, presumably MS already disallowed such expenses, with the result that the federal law change will have no effect. However, to the extent that such local lobbying expenses were considered to be deductible for MS income tax purposes prior to the Act, based on the overall tenor of Reg. 35.III.5.02, it is likely that MS

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		will follow the new federal law in this respect.
34. New Limitation on Like-Kind Property Exchanges	Generally effective for transfers after 12/31/2017, the rule allowing the deferral of gain on like-kind exchanges is modified by the Act to allow for like-kind exchanges only with respect to real property that is not held primarily for sale. The Act does not change the current law provision that no gain or loss is recognized on the exchange of real property held for productive use in a trade or business or for investment if that real property is exchanged solely for real property of like kind that will be held either for productive use in a trade or business or for investment. However, the Act eliminates deferral on like-kind exchanges of depreciable tangible personal property, and intangible and nondepreciable personal property.	MCA § 27-7-9(f)(1)(A) provides that: "No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidence of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment. In addition, no gain or loss shall be recognized on any exchange of property if no gain or loss is recognized with regard to such exchange under Section 1031 of the Internal Revenue Code." While the second quoted sentence above clearly continues to provide deferral treatment for like-kind exchanges with respect to real property that is not held primarily for sale (treatment that is preserved by the Act), the first sentence of the statute appears to continue to allow deferral on like-kind exchanges of depreciable tangible personal property, and certain other intangible personal property that is not limited by the parenthetical. In other words, this statute does not appear to establish a strict mirroring of federal treatment with respect to the category of exchanges.
35. New Limitation on Deductibility of Certain Employee Achievement	The Act provides that for purposes of what is a deductible "employee achievement award,"	MS Reg. 35.III.5.08(100) (Item 5, Item 9 & Item 15) provides that MDOR will follow

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Awards	the term "tangible personal property," does not include cash, cash equivalents, gift cards, gift coupons, or gift certificates (except an arrangement giving an employee the limited right to select and receive tangible personal property from a limited number of preselected or pre-approved items). The term also excludes vacations, meal, lodging, tickets to theater or sporting events, stocks, bonds, other securities, and other similar items. This change applies to amounts paid or incurred after 12/31/2017 (See IRC § 274(j)(3)).	federal law with regard to expenses for these types of employee awards.
36. Modification of Deduction Limit on Compensation for Public Company Executives	IRC § 162(m) limits the deduction for compensation paid by a publicly held corporation to certain of its executive employees to $1 million per year. Before the Act, the applicable executives (for a corporation other than a "smaller reporting company" under the SEC rules) were the corporation's principal executive officer and the next three highest-paid executive officers, other than the principal financial officer, who was not included (i.e., "covered employees"). A different rule applied to smaller reporting companies. Publicly held corporations generally were defined to include only those having securities required to be registered under Section 12 of the Securities Exchange Act of 1934. Additionally, commissions and performance-based compensation payable under stockholder-approved plans were not	Reg. 35.III.5.08(100), dealing with certain "Other Business Deductions," provides that MDOR will follow federal rules with respect to Compensation for Personal Services (Item 9), and Excessive Compensation (Item 18) to the extent that such rules are deemed not contrary to the context and intent of Mississippi law. Accordingly, it is expected that MS will follow the changes to the limitations on this deduction that were made by the Act.

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	subject to the deduction limitation. The Act made changes to these rules by, among other things, (a) modifying the definitions of covered employees and publicly held corporations, and (b) repealing the exemptions for commissions and performance-based compensation. The Act provides a transition rule, but these changes generally apply to compensation deductions for tax years beginning after 12/31/2017.	
37. New Provision for Qualified Equity Grants	The Act adds new IRC § 83(i) to provide a deferral of up to 5 years for the taxation of compensation paid to employees of "eligible corporations" in the form of "qualified stock." An "eligible corporation" is one with stock that is not readily tradable on an established securities market and that has a written plan in place to grant stock options or restricted stock units (RSUs) to at least 80% of all full-time, U.S.-based employees in a calendar year. "Qualified stock" is stock (a) delivered by the exercise of options or settlement of RSUs; and (b) provided for the performance of services during a calendar year in which the corporation was an eligible corporation. The provisions of this new IRC section generally apply to stock attributable to options exercised, or RSUs settled, after 12/31/2017.	Reg. 35.III.2.09(103) states that MDOR "will follow Federal Rules, Regulations and Revenue Procedures regarding prizes, awards and stipends as are deemed not contrary to the context and intent of the Mississippi Law." Since IRC § 83 transactions are transfers or *awards of property* in exchange for services, MS should follow the new provisions of the Act.

DESCRIPTION	FEDERAL LAW CHANGE	MISSISSIPPI TREATMENT
ASSET EXPENSING, AMORTIZATION & DEPRECIATION		
38. Increased IRC § 179 Expensing	For property placed in service ("PPIS") in tax years beginning after 12/31/2017, the maximum amount a taxpayer may expense under IRC § 179 is increased to $1 million, and the phase-out threshold amount is increased to $2.5 million. For tax years beginning after 2018, these amounts are indexed for inflation. The definition of IRC § 179 property is expanded to include certain depreciable tangible personal property used predominantly to furnish lodging or in connection with furnishing lodging. The definition of qualified real property eligible for IRC § 179 expensing is also expanded to include the following improvements to nonresidential real property after the date such property was first placed in service: roofs; heating, ventilation, and air conditioning property; fire protection and alarm systems; and security systems.	Reg. 35.III.5.04 (103) states that MDOR will follow federal rules, regulations and Revenue Procedures issued under IRC § 179 as are deemed not contrary to the context and intent of Mississippi Law. Thus, unless MDOR issues regulations stating otherwise, MS will follow the new more liberal federal law.
39. Temporary 100% Cost Recovery of Qualifying Business Assets (Additional Bonus Depreciation)	For qualified property acquired after 9/27/2017, the current 50% bonus depreciation rate is increased to 100% and phased-out as follows: (1) 100% for PPIS after 9/27/2017 and before 1/1/2023, (2) 80% for PPIS after 12/31/2022 and before 1/1/2024, (3) 60% for PPIS after 12/31/2023 and before 1/1/2025, (4) 40% for PPIS after 12/31/2024 and before	MS will not follow the new federal law. MS does not recognize or follow the current 50% federal bonus depreciation, and there is no reason to believe this will change. Per MDOR's regulations, such "bonus" depreciation does not constitute a reasonable allowance for the exhaustion, wear, and tear and obsolescence of the subject property.

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	1/1/2026, (5) 20% for PPIS after 12/31/2025 and before 1/1/2027, and (6) 0% (bonus expires) for PPIS after 12/31/2026.	MDOR states that the federal bonus depreciation guidelines are contrary to the context and intent of MS law (see MCA § 27-7-17 and Reg. 35.III.5.04(101)).
40. Amortization of Research & Experimental Expenditures	The Act provides that in tax years beginning after 12/31/2021, amounts paid or incurred for most research expenditures are amortized ratably over 5 years. The amortization period begins at the mid-point of the tax year in which the expenditures are paid or incurred. The prior rule which allowed taxpayers to currently deduct research and experimental expenditures is eliminated. Furthermore, taxpayers may no longer elect an amortization period 60 months or greater beginning when benefits are first realized. The rule in IRC § 59(c) which allows a taxpayer to elect 10-year amortization of these expenditures beginning in the year the expenditures are paid or incurred remains available.	As per Reg. 35.III.5.08 (100) (Item 29), MS will follow federal rules regarding deductions for research and experimental expenditures to the extent that such guidelines are deemed not contrary to the context and intent of MS law.
41. Depreciation Caps for Luxury Cars Increased	The Act provides that for passenger autos placed in service after 12/31/2017, in tax years ending after that date for which the bonus first-year depreciation deduction under IRC § 168(k) is not claimed, the maximum amount of allowable depreciation is increased to: (a) $10,000 for the year in which the vehicle is placed in service, (b) $16,000 for the 2nd year, (c) $9,600 for the 3rd year, and (d) $5,760 for the 4th and later years in the recovery period. For passenger autos placed in service after 2018, these dollar limits are indexed for	MS probably will not follow the new federal law. MS does not recognize or follow federal bonus depreciation and this enhanced depreciation amount is similar in nature to bonus depreciation. Per MDOR's regulations, such "bonus" depreciation does not constitute a reasonable allowance for the exhaustion, wear, and tear and obsolescence of the subject property. MDOR states that the federal bonus depreciation guidelines are contrary to the context and intent of MS law (see MCA § 27-7-17 and Reg. 35.III.5.04(101)).

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	inflation. For passenger autos eligible for bonus first-year depreciation, the maximum first-year depreciation allowance remains at $8,000.	
42. Computers and Peripheral Equipment No Longer Treated as Listed Property	Effective for PPIS after 12/31/2017, computers and peripheral equipment are removed as a category of listed property (IRC § 280F(d)(4)(A) of the Act). As a result, the cost of this equipment can be deducted or depreciated like other business property and is no longer subject to the strict substantiation requirements of IRC § 274(d). [Note: This change from listed property status will allow more employees to depreciate or expense the cost of computers since the convenience of the employer and condition of employment requirements of IRC § 280F(d)(3) will no longer apply.]	This federal law change is not in the nature of bonus depreciation. Accordingly, MDOR should follow the federal law change pursuant to MCA § 27-7-17(1)(f) and Reg. 35.III.5.04(100).
43. New Rules Regarding Depreciation of Farm Equipment	Effective for PPIS after 12/31/2017: (a) A 5-year recovery period applies to any machinery or equipment (other than any grain bin, cotton ginning asset, fence, or other land improvement) used in a farming business if the original use commences with the taxpayer after 12/31/2017 (IRC § 168(c)(3)(B)(vii), as amended by the Act). Generally, a 7-year recovery period previously applied to this property; and (b) The provision that requires MACRS 3-, 5-, 7-, and 10-year PPIS after 1988 and used in a farming business to be depreciated using the	The federal law changes do not appear to be in the nature of bonus depreciation and appear to constitute reasonable allowances for the exhaustion, wear, and tear and obsolescence of the subject property. Therefore, MDOR should follow these changes made by the Act. (See MCA § 27-7-17(1)(f) and Reg. 35.III.5.04(100).)

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	150% declining balance ("DB") method in place of the normally applicable 200% DB method is repealed (IRC § 168(b)(2)(B) was repealed by the Act). [Note: Now, a taxpayer may choose to depreciate any class of 3-, 5-, 7-, or 10-year farming property using the 150% DB method, the straight-line method, or the alternative depreciation system (ADS) (see IRC § 168(b)(2)(D)). The election was not previously available because such property had to be depreciated using the 150% DB method.	
44. New Recovery Periods for MACRS Real Property	For PPIS after 12/31/2017, the Act amends IRC § 168 so that separate definitions of qualified leasehold improvement, qualified restaurant, and qualified retail improvement property are eliminated, a general 15-year recovery period and straight-line depreciation are provided for qualified improvement property, and a 20-year ADS recovery period is provided for such property. Thus, qualified improvement PPIS after 12/31/2017, is generally depreciable over 15 years using the straight-line method and half-year convention, without regard to whether the improvements are property subject to a lease, placed in service more than 3 years after the date the building was first placed in service, or made to a restaurant building. Restaurant building PPIS after 12/31/2017, that does not meet the definition of qualified improvement property, is depreciable as nonresidential real property, using the straight-line method and the mid-month convention. For PPIS after 12/31/2017, the ADS	The federal law changes do not appear to be in the nature of bonus depreciation and appear to constitute reasonable allowances for the exhaustion, wear, and tear and obsolescence of the subject property. Therefore, MDOR should follow these changes made by the Act. (See MCA § 27-7-17(1)(f) and Reg. 35.III.5.04(100).)

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	recovery period for residential rental property is shortened from 40 years to 30 years.	
PARTNERSHIP & S CORP PROVISIONS		
45. New Partnership Provision—Repeal of partnership technical termination	Prior to the Act, for federal income tax purposes, the termination of a partnership ("P/S") was triggered if there was a sale or exchange of 50% or more of the total interests in the P/S' capital and profits within a 12-month period (IRC § 708(b)(1)(B)). This type of termination was frequently referred to as a "technical termination" since it was seldom the partners' intent to actually terminate the P/S. When a P/S terminated under these provisions, its assets were considered contributed tax free to a new P/S (under § 721), and the interests in the new P/S were then deemed distributed to the members of the old P/S (Treas. Regs. § 1.708-1(b)(4)). The Act provides that for P/S tax years beginning after 12/31/2017, the aforementioned technical termination rule is repealed. However, the repeal does not change the pre-Act law rule of IRC § 708(b)(1)(A) that a P/S is considered as terminated if no part of any business, financial operation, or venture of the P/S continues to be carried on by any of its partners in a P/S.	MCA § 27-7-25 and Reg. 35.III.9.01 generally address P/Ss for MS income tax purposes. Although neither of these authorities contain a general statement that MDOR will follow the federal rules with respect to P/S taxation, nor are the technical termination provisions of federal law specifically mentioned in the MS rules, based on past MDOR practice of following federal law with respect to most P/S organizational, agreement, and operarional matters, it is expected that MDOR will follow the federal law changes in this regard.
46. New Partnership Provision—	The definition of a "substantial built-in loss" is	MCA § 27-7-25 and Reg. 35.III.9.01 generally

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Modification of definition of partnership "substantial built-in loss"	modified so that a substantial built-in loss also exists if the transferee would be allocated a net loss in excess of $250,000 upon a hypothetical disposition at fair market value by the P/S of all P/S assets immediately after the transfer of the P/S interest (IRC § 743(d)(1), as amended by the Act). In other words, even if the P/S itself does not have an overall built-in loss, depending on allocations of gain under the P/S agreement, a basis adjustment may be mandated with respect to a transferee. This change applies to transfers of P/S interests occurring after 12/31/2017.	address P/Ss for MS income tax purposes. Although neither of these authorities contain a general statement that MDOR will follow the federal rules with respect to partnership taxation, nor are the substantial built-in loss provisions of federal law specifically mentioned in the MS rules, based on past MDOR practice of following federal law with respect to most P/S organizational, agreement, and operational matters, including basis determination matters, it is expected that MDOR will follow the federal law changes in this regard.
47. New Partnership Provision—Basis limitation on partner losses takes into account charitable contributions and foreign taxes	The Act amends IRC § 704(d) so that the basis limitation on partner losses is modified to take into account a partner's distributive share of (a) P/S charitable contributions, and (b) taxes paid or accrued to foreign countries and U.S. possessions. For a charitable contribution by the P/S, the amount of the basis limitation on partner losses is decreased by the partner's distributive share of the adjusted basis of the contributed property. A special rule provides that if the P/S makes a charitable contribution of property whose FMV is greater than its adjusted basis, the basis limitation on partner losses does not account for the partner's distributive share of the excess.	MCA § 27-7-25 and Reg. 35.III.9.01 generally address P/Ss for MS income tax purposes. Although neither of these authorities contain a general statement that MDOR will follow the federal rules with respect to partnership taxation, nor are the basis limitation provisions of federal law specifically mentioned in the MS rules, based on past MDOR practice of following federal law with respect to most organic, P/S organizational, agreement, and operational matters, including basis determination matters, it is expected that MDOR will follow the federal law changes in this regard.
48. Modification of Treatment of S corporation Conversions to C	The Act provides that after 12/22/2017, distributions from an "eligible terminated S	Reg. 35.III.8.03(101, 102.01 & 107) provides that MS S corp treatment will conform to

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corporations	corporation" are treated as paid from its accumulated adjustments account and from its earnings and profits on a pro rata basis. Any IRC § 481(a) adjustment resulting from an accounting method change that is attributable to an eligible S corp's revocation of its S corp election during the 2-year period beginning on 12/31/2017, will be taken into account ratably over a 6-year period beginning with the year of change. An eligible terminated S corp is any C corporation that (a) was an S corp on 12/21/2017, (b) revoked its S corp election during the 2-year period beginning on 12/22/2017, and (c) had the same owners on 12/22/2017 and on the revocation date (in the same proportion).	federal law with respect to provisions concerning termination of S corp status, distributions, and various adjustments. Accordingly, MDOR should adopt the new federal law provisions.
ACCOUNTING METHOD CHANGES		
49. Accounting Method Change—Taxable year of inclusion	(a) Under the Act, generally for tax years beginning after 12/31/2017, a taxpayer is required to recognize income no later than the tax year in which such income is taken into account as income on an applicable financial statement or another financial statement under rules specified by the IRS (subject to an exception for long-term contract income under IRC § 460)). (b) The Act also codifies the current deferral method of accounting for advance payments	As previously noted, the MS net taxable income computation for corporations begins with FTI before NOLs and certain special deductions. Then certain additions and deductions are made to the adjusted FTI number. In summary, the MS taxable income amount will follow the effect of any changes that may occur due to the new federal rules affecting the taxable year of income inclusion.

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	for goods and services provided by Rev. Proc. 2004-34 to allow taxpayers to defer the inclusion of income from certain advance payments to the end of the tax year following the tax year of receipt if such income also is deferred for financial statement purposes. In addition, it directs taxpayers to apply the revenue recognition rules of IRC § 452 before applying the OID rules under IRC§ 1272.	
50. Accounting Method Change—Cash method of accounting	(a) For tax years beginning after 12/31/2017, the cash method may be used by taxpayers (other than tax shelters) that satisfy a $25 million gross receipts test, regardless of whether the purchase, production, or sale of merchandise is an income-producing factor. Under the gross receipts test, taxpayers with annual average gross receipts that do not exceed $25 million (indexed for inflation for tax years beginning after 12/31/2018) for the three prior tax years are allowed to use the cash method. (b) The exceptions from the required use of the accrual method for qualified personal service corporations and taxpayers other than C corps are retained. Accordingly, qualified personal service corporations, partnerships without C corporation partners, S corps, and other pass-through entities are allowed to use the cash method without regard to whether they meet the $25 million gross receipts test, so long as the use of the method clearly reflects income.	Reg. 35.III.1.03 generally permits the taxpayer to choose its method of accounting so long as the method clearly reflects income. The method selected on the initial return must be adhered to unless the taxpayer obtains MDOR's permission to change. Thus, the federal law change that permits cash basis accounting for businesses meeting the gross receipts test can be followed for MS tax purposes, provided (a) MDOR's consent is obtained in advance, (b) the change will pass the clear reflection of income test, and (c) any income adjustments required by MDOR are implemented.

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51. Accounting Method Change—Accounting for inventories	Under the Act, for tax years beginning after 12/31/2017, taxpayers that meet the $25 million gross receipts test are not required to account for inventories under IRC § 471, but rather may use an accounting method for inventories that either (a) treats inventories as non-incidental materials and supplies, or (b) conforms to the taxpayer's financial accounting treatment of inventories. This provision may result in a change in the taxpayer's accounting method for purposes of IRC § 481.	Reg. 35.III.1.04 specifically states that MDOR "will follow Federal Rules, Regulations and Revenue Procedures relating to inventories as are not deemed contrary to the context and intent of Mississippi Law." Accordingly, most likely MS will follow the Act's new provisions in this regard with the caveats that (a) MDOR's consent is obtained in advance because this will be considered a change in accounting method, (b) the change will pass the clear reflection of income test, and (c) any income adjustments required by MDOR are implemented.
52. Accounting Method Change—Capitalization and inclusion of certain expenses in inventory costs	For tax years beginning after 12/31/2017, any producer or re-seller that meets the $25 million gross receipts test is exempted from the application of IRC § 263A, having to do with the so-called uniform capitalization ("UNICAP") rules. The UNICAP rules prescribe the method for determining the types and amounts of costs that must be capitalized rather than expensed in the current period. These rules generally require a capitalization of all direct costs and certain indirect costs properly allocable to property produced or property acquired for resale. The exemptions from the UNICAP rules that are not based on a taxpayer's gross receipts are retained.	Reg. 35.III.1.04 specifically states that MDOR "will follow Federal Rules, Regulations and Revenue Procedures relating to inventories as are not deemed contrary to the context and intent of Mississippi Law." Accordingly, most likely MS will follow the Act's new provisions in this regard with the caveats that (a) MDOR's consent is obtained in advance because this will be considered a change in accounting method, (b) the change will pass the clear reflection of income test, and (c) any income adjustments required by MDOR are implemented.
53. Accounting Method Change—Accounting for long-term contracts	Under the Act, for contracts entered into after 12/31/2017, in tax years ending after that date, the exception for small construction contracts	Reg. 35.III.1.08 (100) currently states that "Long term contracts entered into after February 28, 1986, must be reported under the

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	from the requirement to use the percentage of completion method ("PCM") is expanded to apply to contracts for the construction or improvement of real property if the contract: (a) is expected (at the time such contract is entered into) to be completed within 2 years of commencement of the contract, and (b) is performed by a taxpayer that (for the tax year in which the contract was entered into) meets the $25 million gross receipts test. Use of this PCM exception for small construction contracts is applied on a cutoff basis for all similarly classified contracts, and thus there is no IRC § 481(a) adjustment for contracts entered into before 1/1/2018.	percentage of completion — capitalized cost method as required by the Internal Revenue Service." This language indicates MDOR's intention to follow federal law in this regard and that is what should be expected in MS with respect to the new PCM exception provided under the Act.
EXEMPT ORGANIZATIONS & EXCISE TAXES		
54. Tax-Exempt Organizations—Excise tax on excess tax-exempt organization executive compensation	For tax years beginning after 12/31/2017, a tax-exempt organization is subject to a tax at the corporate tax rate (21% under the Act) on the sum of: (a) the remuneration (other than an excess parachute payment) in excess of $1 million paid to a covered employee by an applicable tax-exempt organization for a tax year; and (b) any excess parachute payment (as newly defined) paid by the applicable tax-exempt organization to a covered employee. A covered employee is an employee (including any former employee) of an applicable tax-exempt organization if the employee is one of the 5 highest compensated employees of the organization for the tax year or was a covered	The changes made by the Act are uniquely applicable in the federal income tax context and will not apply or be followed for MS income tax purposes. There would have to be specific MS statutory authority to levy a new excise tax similar to what the Act imposes in this regard.

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	employee of the organization (or a predecessor) for any preceding tax year beginning after 12/31/2016. Remuneration is treated as paid when there is no substantial risk of forfeiture of the rights to such remuneration. (See new IRC § 4960.)	
55. Tax-Exempt Organizations—Disallowed fringe benefits treated as additions to unrelated income	The Act provides that unrelated business taxable income ("UBTI") of an exempt organization will be increased by the nondeductible amount of certain fringe benefit expenses incurred by the organization in that tax year, effective for amounts paid or incurred after 12/31/2017 (IRC § 512(a)(7), as added by the Act). These fringe benefits are expenses for which a deduction is not available due to IRC § 274, and specifically include: (a) any qualified transportation fringe, as defined in IRC § 132(f); (b) any parking facility used in connection with qualified parking, as defined in IRC § 132(f)(5)(C); and (c) any on-premises athletic facility, as defined in IRC § 132(j)(4)(B).	MCA § 27-7-29(b)(1) specifically ties the definition of MS UBTI to the federal definition. Accordingly, MS will follow these new provisions of the Act in calculating the MS UBTI of MS tax-exempt entities.
56. Tax-Exempt Organizations—UBTI separately computed for each trade or business activity	The Act adds a special rule for exempt organizations that have UBTI from operating more than one unrelated business. For tax years beginning after 12/31/2017 (subject to an exception for NOLs arising in a tax year beginning before 1/1/2018, that are carried forward), losses from one unrelated trade or business may not be used to offset income derived from another unrelated trade or business. Gains and losses have to be	MCA § 27-7-29(b)(1) specifically ties the definition of MS UBTI to the federal definition. Accordingly, MS will follow these new provisions of the Act in calculating the MS UBTI of MS tax-exempt entities.

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	calculated and applied separately. (See new IRC § 512(a)(6).)	
57. Excise Tax Based on Investment Income of Private Colleges and Universities (Endowment Excise Tax)	For tax years beginning after 12/31/2017, the Act imposes a tax on the net investment income of certain private colleges and universities (see IRC § 4968). Net investment income is defined by reference to IRC § 4940(c), which defines it for purposes of the excise tax applicable to private foundations. "Applicable educational institutions" will be subject to this new excise tax, further defined as eligible educational institutions described in IRC § 25A(f)(2)) that: (a) have at least 500 students during the preceding tax year, of which more than 50% are located in the U.S., (b) are private educational institutions, and (c) have assets with an aggregate FMV of at least $500,000 per student (not including assets used directly in carrying out the institution's exempt purpose) as measured at the end of the preceding tax year.	No effect. The changes made by the Act are uniquely applicable in the federal income tax context and will not apply or be followed for MS income tax purposes. There would have to be specific MS statutory authority to levy a new excise tax similar to what the Act imposes in this regard.
RETIREMENT PLANS & BENEFITS		
58. Recharacterization of Roth IRA Contributions No Longer Permitted	For tax years beginning after 12/31/2017, the special rule that allows a contribution to one type of IRA to be recharacterized as a contribution to the other type of IRA does not apply to a conversion contribution to a Roth IRA. This is designed to prevent recharacterization aimed at unwinding a Roth IRA conversion.	MS will follow the federal law changes (MDOR will follow the federal rules, regulations and Revenue Procedures issued regarding retirement plans as are deemed not contrary to the context and intent of MS law). See MCA § 27-7-16, Reg. 35.III.4.01(100), Payments to an IRA, SEP, Keogh Retirement Plan (Retirement Plans), and Reg. 35.III.4.02, Adjustments to Gross Income—Retirement Plans.

DESCRIPTION	FEDERAL LAW CHANGE	MISSISSIPPI TREATMENT
59. ABLE Account Changes	Generally, the ABLE Act (enacted on 12/19/2014, as part of The Tax Increase Prevention Act of 2014 (P.L. 113–295), permits a state to establish and maintain a new type of tax-advantaged savings program (under IRC § 529A). Contributions may be made to a 529A account established for a designated beneficiary to pay for qualified disability expenses. Effective for tax years beginning after 12/22/2017 and before 1/1/2026, the contribution limitation for ABLE accounts is increased, and other changes are in effect as described below. After the overall limitation on contributions is reached (i.e., the annual gift tax exemption amount; for 2018, $15,000), an ABLE account's designated beneficiary can contribute an additional amount, up to the lesser of (a) the federal poverty line for a one-person household; or (b) the individual's compensation for the tax year. Additionally, the designated beneficiary of an ABLE account can claim the saver's credit under (IRC § 25B) for contributions made to his or her ABLE account. For distributions after 12/22/2017, amounts from qualified tuition programs ("QTPs", also known as 529 accounts; see below) are allowed to be rolled over to an ABLE account without penalty, provided that the ABLE account is owned by the designated beneficiary of such 529	The MS ABLE Act is set forth in SB 2311 (2017 Miss. Legislature, Reg. Sess.). Section 15 of the Bill amends MCA 27-7-15 to add subsection (4)(ii), which addresses non-taxability of certain income from the MS ABLE Trust Fund. Section 7 of the Bill allows a deduction for MS income tax purposes up to the "maximum annual amount limit established by Congress for such accounts…." Accordingly, MS will follow the new federal contribution limitation rules. In addition, because MS generally follows the federal scheme with respect to ABLE accounts, it is expected that MS will similarly follow the federal changes regarding QTP rollovers, etc. However, there is no provision that will allow a saver's credit for MS tax purposes.

DESCRIPTION	FEDERAL LAW CHANGE	MISSISSIPPI TREATMENT
	account, or a member of the designated beneficiary's family. These rolled-over amounts are counted towards the overall limitation on amounts that can be contributed to an ABLE account within a tax year, and any amount rolled over in excess of this limitation is includible in the gross income of the distributee.	
60. Length of Service Award Exclusion for Bona Fide Public Safety Volunteers	For years beginning after 12/31/2017, the Act amends IRC § 457(e)(11)(B) to increase the maximum deferral amount for length of service awards that may accrue for a bona fide volunteer with respect to any year of service, from $3,000 to $6,000, and adjusts that amount to reflect changes in cost-of-living for certain future years.	MS will follow the federal law treatment. (See Reg. 35.III.2.07).

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