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To: Ways and Means

HOUSE BILL NO. 955

1 AN ACT TO AMEND SECTION 27-65-33, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE AMOUNT THAT A TAXPAYER MAY RETAIN AS COMPENSATION  
3 FOR COLLECTING SALES AND USE TAXES AND FOR FILING NECESSARY  
4 RETURNS WITH THE STATE TAX COMMISSION; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 27-65-33, Mississippi Code of 1972, is  
7 amended as follows:

8 27-65-33. The taxes levied by this chapter shall be due and  
9 payable on or before the twentieth day of the month next  
10 succeeding the month in which the tax accrues, except as otherwise  
11 provided. Returns and payments placed in the mail must be  
12 postmarked by the due date in order to be considered timely filed,  
13 except when the due date falls on a weekend or holiday, returns  
14 and payments placed in the mail must be postmarked by the first  
15 working day following the due date in order to be considered  
16 timely filed. The taxpayer shall make a return showing the gross  
17 proceeds of sales or the gross income of the business, and any and  
18 all allowable deductions, or exempt sales, and compute the tax due  
19 for the period covered.

20 As compensation for collecting sales and use taxes, complying  
21 fully with the applicable statutes, filing returns and supplements  
22 thereto and paying all taxes by the twentieth of the month  
23 following the period covered, the taxpayer may discount and retain  
24 two percent (2%) of the liability on each return subject to the  
25 following limitations:

26 (a) The compensation or discount shall not apply to  
27 taxes levied under the provisions of Sections 27-65-19 and

28 27-65-21, or on charges for ginning cotton under Section 27-65-23.

29 (b) The compensation or discount shall not apply to  
30 taxes collected by a county official or state agency.

31 (c) The compensation or discount shall not exceed One  
32 Hundred Dollars (\$100.00) per month, or One Thousand Two Hundred  
33 Dollars (\$1,200.00) per calendar year, per business location on  
34 each state sales tax return, or on each use tax return.

35 (d) The compensation or discount shall not apply to any  
36 wholesale tax, the rate of which is equal to or greater than the  
37 tax rate applicable to retail sales of the same property or  
38 service. The retailer of such items shall be entitled to the  
39 compensation based on the tax computed on retail sales before  
40 application of the credit for any tax paid to the wholesaler,  
41 jobber, or other person.

42 (e) The compensation or discount allowed and taken for  
43 any filing period may be reassessed and collected when an audit of  
44 a taxpayer's records reveals a tax deficiency for that period.

45 All returns shall be sworn to by the taxpayer, if made by an  
46 individual, or by the president, vice president, secretary or  
47 treasurer of a corporation, or authorized agent, if made on behalf  
48 of a corporation. If made on behalf of a partnership, joint  
49 venture, association, trust, estate, or in any other group or  
50 combination acting as a unit, any individual delegated by such  
51 firm shall swear to the return on behalf of the taxpayer. The  
52 commissioner may prescribe methods by which the taxpayer may swear  
53 to his return.

54 The commissioner may promulgate rules and regulations to  
55 require or permit filing periods of any duration, in lieu of  
56 monthly filing periods, for any taxpayer or group thereof.

57 The commissioner may require the execution and filing by the  
58 taxpayer with the commissioner of a good and solvent bond with  
59 some surety company authorized to do business in Mississippi as  
60 surety thereon in an amount double the aggregate tax liability by

61 such taxpayer for any previous three (3) months' period within the  
62 last calendar year or estimated three (3) months tax liability.  
63 Said bond is to be conditioned for the prompt payment of such  
64 taxes as may be due for each such return.

65 The commissioner, for good cause, may grant such reasonable  
66 additional time within which to make any return required under the  
67 provisions of this chapter as he may deem proper, but the time for  
68 filing any return shall not be extended beyond the twentieth of  
69 the month next succeeding the regular due date of the return  
70 without the imposition of interest at the rate of one percent (1%)  
71 per month or fractional part of a month from the time the return  
72 was due until the tax is paid.

73 For persistent, willful, or recurring failure to make any  
74 return and pay the tax shown thereby to be due by the time  
75 specified, there shall be added to the amount of tax shown to be  
76 due ten percent (10%) damages, or interest at the rate of one  
77 percent (1%) per month, or both.

78 Any taxpayer may, upon making application therefor, obtain  
79 from the commissioner an extension of time for the payment of  
80 taxes due on credit sales until collections thereon have been  
81 made. When such extension is granted, the taxpayer shall  
82 thereafter include in each monthly or quarterly report all  
83 collections made during the preceding month or quarter, and shall  
84 pay the taxes due thereon at the time of filing such report. Such  
85 permission may be revoked or denied at the discretion of the  
86 commissioner when, in his opinion, a total sales basis will best  
87 reflect the taxable income or expedite examination of the  
88 taxpayer's records.

89 Any taxpayer reporting credit sales before collection thereof  
90 has been made may take credit on subsequent returns or reports for  
91 bad debts actually charged off, if such amounts charged off have  
92 previously been included in taxable gross income or taxable gross  
93 proceeds of sales, as the case may be, and the tax paid thereon.

94 However, any amounts subsequently collected on accounts that have  
95 been charged off as bad debts shall be included in subsequent  
96 reports and the tax shall be paid thereon.

97 In cases where an extension of time has been granted by the  
98 commissioner for payment of taxes due on credit sales and the  
99 taxpayer thereafter discontinues the business, such taxpayer shall  
100 be required to file with the commissioner within ten (10) days, or  
101 such further time as the commissioner may direct, from the date of  
102 the discontinuance of such business, a special report showing the  
103 amounts of any credit sales which have not been included in  
104 determining the measure of the tax previously paid and any other  
105 information with reference to credit sales as the commissioner may  
106 require. The commissioner shall thereupon investigate the facts  
107 with reference to credit sales and the condition of the accounts,  
108 and shall determine, from the best evidence available, the value  
109 of all open accounts, notes, or other evidence of debt arising  
110 from credit sales. The value of all notes, open accounts and  
111 other evidence of debt, as thus determined by the commissioner,  
112 shall be used in determining the amount of the tax for which such  
113 taxpayer shall be liable. When the amount of the tax shall have  
114 been ascertained, the taxpayer shall be required to pay the same  
115 within ten (10) days or such further time as the commissioner may  
116 allow, notwithstanding the fact that such note or accounts may  
117 still remain uncollected.

118 SECTION 2. This act shall take effect and be in force from  
119 and after July 1, 1999.