

By: Davis

To: Ways and Means

HOUSE BILL NO. 78

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE ADDITIONAL 2% SALES TAX LEVIED UPON CERTAIN  
3 MOTOR VEHICLES SHALL NOT APPLY TO CERTAIN RENTAL MOTOR VEHICLES;  
4 TO AMEND SECTION 27-65-23, MISSISSIPPI CODE OF 1972, TO CLARIFY  
5 THAT THE IMPOSITION OF THE 7% SALES TAX ON THE BUSINESS OF RENTING  
6 OR LEASING PERSONAL PROPERTY DOES NOT APPLY TO THE RENTAL OF SUCH  
7 MOTOR VEHICLES; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 27-65-17, Mississippi Code of 1972, is  
10 amended as follows:

11 27-65-17. (1) Upon every person engaging or continuing  
12 within this state in the business of selling any tangible personal  
13 property whatsoever there is hereby levied, assessed and shall be  
14 collected a tax equal to seven percent (7%) of the gross proceeds  
15 of the retail sales of the business, except as otherwise provided  
16 herein.

17 Retail sales of farm tractors shall be taxed at the rate of  
18 one percent (1%) when made to farmers for agricultural purposes.

19 Retail sales of farm implements sold to farmers and used  
20 directly in the production of poultry, ratite, domesticated fish  
21 as defined in Section 69-7-501, livestock, livestock products,  
22 agricultural crops or ornamental plant crops or used for other  
23 agricultural purposes shall be taxed at the rate of three percent

24 (3%) when used on the farm. The three percent (3%) rate shall  
25 also apply to all equipment used in logging, pulpwood operations  
26 or tree farming which is either (a) self-propelled or which is (b)  
27 mounted so that it is (i) permanently attached to other equipment  
28 which is self-propelled or (ii) permanently attached to other  
29 equipment drawn by a vehicle which is self-propelled.

30 Except as otherwise provided in subsection (3) of this  
31 section, retail sales of aircraft, automobiles, trucks,  
32 truck-tractors, semitrailers and mobile homes shall be taxed at  
33 the rate of three percent (3%).

34 Sales of manufacturing machinery or manufacturing machine  
35 parts when made to a manufacturer or custom processor for plant  
36 use only when said machinery and machine parts will be used  
37 exclusively and directly within this state in manufacturing a  
38 commodity for sale, rental or in processing for a fee shall be  
39 taxed at the rate of one and one-half percent (1-1/2%).

40 Sales of materials for use in track and track structures to a  
41 railroad whose rates are fixed by the Interstate Commerce  
42 Commission or the Mississippi Public Service Commission shall be  
43 taxed at the rate of three percent (3%).

44 Sales of tangible personal property to electric power  
45 associations for use in the ordinary and necessary operation of  
46 their generating or distribution systems shall be taxed at the  
47 rate of one percent (1%).

48 Wholesale sales of beer shall be taxed at the rate of seven  
49 percent (7%), and the retailer shall file a return and compute the  
50 retail tax on retail sales but may take credit for the amount of  
51 the tax paid to the wholesaler on said return covering the  
52 subsequent sales of same property, provided adequate invoices and  
53 records are maintained to substantiate the credit.

54 Wholesale sales of food and drink for human consumption to

55 full service vending machine operators to be sold through vending  
56 machines located apart from and not connected with other taxable  
57 businesses shall be taxed at the rate of eight percent (8%).

58 A manufacturer selling at retail in this state shall be  
59 required to make returns of the gross proceeds of such sales and  
60 pay the tax imposed in this section.

61 Any person exercising any privilege taxable under Section  
62 27-65-15 and selling his natural resource products at wholesale or  
63 to exempt persons shall pay the tax levied by said section in lieu  
64 of the tax levied by this section.

65 (2) From and after January 1, 1995, retail sales of private  
66 carriers of passengers and light carriers of property, as defined  
67 in Section 27-51-101, shall be taxed an additional two percent  
68 (2%). However, the additional tax provided for in this subsection  
69 (2) shall not apply to motor vehicles primarily used as rentals  
70 under agreements with a term of not more than thirty (30)  
71 continuous days each and under the control of persons who are  
72 engaged in the business of renting such motor vehicles and who are  
73 subject to the tax under Section 27-65-231.

74 (3) In lieu of the tax levied in subsection (1) of this  
75 section, there is levied on retail sales of truck-tractors and  
76 semitrailers used in interstate commerce and registered under the  
77 International Registration Plan (IRP) or any similar reciprocity  
78 agreement or compact relating to the proportional registration of  
79 commercial vehicles entered into as provided for in Section  
80 27-19-143, a tax at the rate of three percent (3%) of the portion  
81 of the sale that is attributable to the usage of such  
82 truck-tractor or semitrailer in Mississippi. The portion of the

83 retail sale that is attributable to the usage of such  
84 truck-tractor or semitrailer in Mississippi is the retail sales  
85 price of the truck-tractor or semitrailer multiplied by the  
86 percentage of the total miles traveled by the vehicle that are  
87 traveled in Mississippi. The tax levied pursuant to this  
88 subsection (3) shall be collected by the State Tax Commission from  
89 the purchaser of such truck-tractor or semitrailer at the time of  
90 registration of such truck-tractor or semitrailer.

91 SECTION 2. Section 27-65-23, Mississippi Code of 1972, is  
92 amended as follows:

93 27-65-23. Upon every person engaging or continuing in any of  
94 the following businesses or activities there is \* \* \* levied,  
95 assessed and shall be collected a tax equal to seven percent (7%)  
96 of the gross income of the business, except as otherwise provided:

97 Air conditioning installation or repairs;

98 Automobile, aircraft, motorcycle, boat or any other  
99 vehicle repairing or servicing;

100 Billiards, pool or domino parlors;

101 Bowling or tenpin alleys;

102 Burglar and fire alarm systems or services;

103 Car washing--automatic, self-service, or manual;

104 Computer software sales and services;

105 Cotton compresses or cotton warehouses;

106 Custom creosoting or treating, custom planing, custom  
107 sawing;

108 Custom meat processing;

109 Electricians, electrical work, wiring, all repairs or  
110 installation of electrical equipment;

111 Elevator or escalator installing, repairing or servicing;  
112 Film developing or photo finishing;  
113 Foundries, machine or general repairing;  
114 Furniture repairing or upholstering;  
115 Grading, excavating, ditching, dredging or landscaping;  
116 Hotels, motels, tourist courts or camps, trailer parks;  
117 Insulating services or repairs;  
118 Jewelry or watch repairing;  
119 Laundering, cleaning, pressing or dyeing;  
120 Marina services;  
121 Mattress renovating;  
122 Office and business machine repairing;  
123 Parking garages and lots;  
124 Plumbing or pipe fitting;  
125 Public storage warehouses;  
126 Refrigerating equipment repairs;  
127 Radio or television installing, repairing, or servicing;  
128 Renting or leasing personal property, other than the  
129 renting of motor vehicles which is subject to the tax under  
130 Section 27-65-231, used within this state;  
131 Services performed in connection with geophysical  
132 surveying, exploring, developing, drilling, producing,  
133 distributing, or testing of oil, gas, water and other mineral  
134 resources;  
135 Shoe repairing;  
136 Storage lockers;  
137 Telephone answering or paging services;  
138 Termite or pest control services;

139           Tin and sheet metal shops;  
140           TV cable systems, subscription TV services, and other  
141 similar activities;  
142           Vulcanizing, repairing or recapping of tires or tubes;  
143           Welding; and  
144           Woodworking or wood turning shops.

145           Income from services taxed herein performed for electric  
146 power associations in the ordinary and necessary operation of  
147 their generating or distribution systems shall be taxed at the  
148 rate of one percent (1%).

149           Income from services taxed herein performed on materials for  
150 use in track or track structures to a railroad whose rates are  
151 fixed by the Interstate Commerce Commission or the Mississippi  
152 Public Service Commission shall be taxed at the rate of three  
153 percent (3%).

154           Income from renting or leasing tangible personal property  
155 used within this state shall be taxed at the same rates as sales  
156 of the same property.

157           Persons doing business in this state who rent transportation  
158 equipment with a situs within or without the state to common,  
159 contract or private commercial carriers are taxed on that part of  
160 the income derived from use within this state. If specific  
161 accounting is impracticable, a formula may be used with approval  
162 of the commissioner.

163           A lessor may deduct from the tax computed on the rental  
164 income from tangible personal property a credit for sales or use  
165 tax paid to this state at the time of purchase of the specific  
166 personal property being leased or rented until such credit has

167 been exhausted.

168 Charges for custom processing and repairing services may be  
169 excluded from gross taxable income when the property on which the  
170 service was performed is delivered to the customer in another  
171 state either by common carrier or in the seller's equipment.

172 When a taxpayer performs unitary services covered by this  
173 section, which are performed both in intrastate and interstate  
174 commerce, the commissioner is \* \* \* vested with authority to  
175 formulate in each particular case and to fix for such taxpayer in  
176 each instance formulae of apportionment which will apportion to  
177 this state, for taxation, that portion of the services which are  
178 performed within the State of Mississippi.

179 SECTION 3. Nothing in this act shall affect or defeat any  
180 claim, assessment, appeal, suit, right or cause of action for  
181 taxes due or accrued under the sales tax laws before the date on  
182 which this act becomes effective, whether such claims,  
183 assessments, appeals, suits or actions have been begun before the  
184 date on which this act becomes effective or are begun thereafter;  
185 and the provisions of the sales tax laws are expressly continued  
186 in full force, effect and operation for the purpose of the  
187 assessment, collection and enrollment of liens for any taxes due  
188 or accrued and the execution of any warrant under such laws before  
189 the date on which this act becomes effective, and for the  
190 imposition of any penalties, forfeitures or claims for failure to  
191 comply with such laws.

192 SECTION 4. This act shall take effect and be in force from  
193 and after July 1, 2000.