

By: Fleming, Bowles, Dedeaux, Evans, Flaggs, To: Ways and Means
Formby, Fredericks, Gibbs, Huddleston,
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HOUSE BILL NO. 307

1 AN ACT TO AMEND SECTION 27-7-53, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT A TAXPAYER FILING AN INDIVIDUAL INCOME TAX RETURN WHO
3 OWES ADDITIONAL INCOME TAX IN AN AMOUNT IN EXCESS OF \$150.00 BUT
4 LESS THAN \$3,000.00, MAY REQUEST THAT THE CHAIRMAN OF THE STATE
5 TAX COMMISSION ALLOW THE TAXPAYER TO PAY THE ADDITIONAL TAX
6 THROUGH AN INSTALLMENT AGREEMENT; TO PROVIDE THAT THE CHAIRMAN OF
7 THE STATE TAX COMMISSION MAY ALLOW SUCH A TAXPAYER TO PAY THE
8 ADDITIONAL INCOME TAX THROUGH AN INSTALLMENT AGREEMENT IF THE
9 CHAIRMAN OF THE STATE TAX COMMISSION DETERMINES THE TAXPAYER IS
10 FINANCIALLY UNABLE TO PAY THE ADDITIONAL TAX AND CERTAIN OTHER
11 CONDITIONS ARE SATISFIED; AND FOR RELATED PURPOSES.

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

13 SECTION 1. Section 27-7-53, Mississippi Code of 1972, is
14 amended as follows: [BD1]

15 27-7-53. (1) (a) Except as otherwise provided in this
16 section, if a return is timely filed by the taxpayer but the tax
17 due is not paid, the commissioner shall make his assessment of tax
18 due by mail or by personal delivery of the assessment to the
19 taxpayer, which assessment shall constitute notice and demand for
20 payment. The taxpayer shall be given a period of thirty (30) days
21 from the date of the notice in which to pay the tax due, including
22 penalty and interest as hereinafter provided, and if said sum is
23 not paid within the period of thirty (30) days, the commissioner
24 shall proceed to collect same under the provisions of Sections
25 27-7-55 to 27-7-67 of this article; provided that within said

26 period of thirty (30) days the taxpayer may appeal as set out in
27 Sections 27-7-71 and 27-7-73.

28 (b) (i) If an individual return is timely filed by the
29 taxpayer and the amount of tax liability (determined without
30 regard to interest, penalties, additions to the tax and additional
31 amounts) of the taxpayer exceeds One Hundred Fifty Dollars
32 (\$150.00) but does not exceed Three Thousand Dollars (\$3,000.00),
33 the taxpayer may request to pay the tax liability through an
34 installment agreement. The taxpayer must file such a request with
35 the return and must provide all information required by the
36 commissioner. If the commissioner determines a taxpayer is
37 financially unable to pay the tax liability, the commissioner may
38 enter into an agreement to accept payment of the tax liability in
39 installments if:

40 1. The taxpayer (and the taxpayer's spouse if
41 the tax liability relates to a joint return), during any of the
42 preceding five (5) years, has not failed to file any return
43 required by this chapter, failed to pay any tax required by this
44 chapter or entered into an installment agreement under this
45 paragraph (b);

46 2. The agreement requires full payment of the
47 tax liability in equal installments within twelve (12) months from
48 the date the return was filed; and

49 3. The taxpayer agrees to comply with the
50 terms of the agreement.

51 ii. Payments made through an installment agreement
52 shall be subject to the interest requirements of subsection (3) of
53 this section.

54 iii. The commissioner may terminate an installment
55 agreement entered into under this paragraph (b) if he determines
56 the taxpayer provided inaccurate or incomplete information before

57 the agreement was entered into or he believes the collection of
58 the tax to which the agreement relates is in jeopardy.

59 iv. The commissioner may modify or terminate an
60 installment agreement entered into under this paragraph (b) if the
61 taxpayer fails to:

62 1. Pay any installment due under the
63 agreement;

64 2. Pay an other tax liability due under this
65 chapter when the liability is due; or

66 3. Provide a statement of financial condition
67 required by the commissioner.

68 (2) If no return is made by a taxpayer required by this
69 chapter to make a return, the commissioner shall determine the
70 taxpayer's liability from the best information available, which
71 determination shall be prima facie correct for the purpose of this
72 article, and the commissioner shall forthwith make an assessment
73 of the tax so determined to be due by mail or by personal delivery
74 of the assessment to the taxpayer, which assessment shall
75 constitute notice and demand for payment. The taxpayer shall be
76 given a period of thirty (30) days from the date of the notice in
77 which to pay the tax due, including penalty and interest as
78 hereinafter provided, and if said sum is not paid within the
79 period of thirty (30) days, the commissioner shall proceed to
80 collect same under the provisions of Sections 27-7-55 to 27-7-67
81 of this article; provided that within said period of thirty (30)
82 days the taxpayer may appeal as set out in Sections 27-7-71 and
83 27-7-73.

84 (3) Interest at the rate of one percent (1%) per month from

85 the due date of the return shall be added or assessed in addition
86 to the tax due as hereinabove provided in subsections (1) and (2).

87 (4) In case of failure to file a return as required by this
88 chapter, unless it can be shown that the failure is due to
89 reasonable cause and not due to willful neglect, there shall be
90 added to the amount required to be shown as tax on the return a
91 penalty of five percent (5%) of the amount of the tax if the
92 failure is for not more than one (1) month, with an additional
93 five percent (5%) for each additional month or fraction thereof
94 during which the failure continues, not to exceed twenty-five
95 percent (25%) in the aggregate. Such failure to file a return
96 penalty shall not be less than One Hundred Dollars (\$100.00).

97 (5) In case of failure to pay the amount shown as tax on any
98 return specified in subsections (1) and (2) of this section on or
99 before the date prescribed for payment of the tax, determined with
100 regard to any extension of time for payment or installment
101 agreement, or both, unless it is shown that the failure is due to
102 reasonable cause and not due to willful neglect, there shall be
103 added to the amount shown as tax on the return one-half of one
104 percent (1/2 of 1%) of the amount of the tax if the failure is for
105 not more than one (1) month, with an additional one-half of one
106 percent (1/2 of 1%) for each additional month or fraction thereof
107 during which the failure continues, not to exceed twenty-five
108 percent (25%) in the aggregate.

109 SECTION 2. This act shall take effect and be in force from
110 and after January 1, 2001.