

By: Brown, Pierce

To: Ways and Means

HOUSE BILL NO. 1435

1 AN ACT TO CREATE A NEW CODE SECTION TO GIVE THE STATE TAX
2 COMMISSION THE POWER AND AUTHORITY TO RECEIVE, CONSIDER AND ACT ON
3 OFFERS IN COMPROMISE AND SETTLEMENT PROPOSALS AS TO A TAXPAYER'S
4 LIABILITIES FOR TAXES, INTEREST AND PENALTIES.

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

6 SECTION 1. The following shall be codified as Section 27-3-80,
7 Mississippi Code of 1972:

8 27-3-80. The State Tax Commission shall have the power and
9 authority to enter into an agreement with any taxpayer under which
10 such taxpayer's tax liabilities, or any part thereof, including any
11 applicable or assessed interest and penalty, are settled and
12 compromised, and in connection therewith to receive and consider
13 offers in compromise and settlement proposals, and to enter into
14 binding settlement agreements and closing agreements under which a
15 taxpayer's liabilities for taxes, interest and penalties are fully
16 and finally compromised and settled. Such power and authority
17 shall extend to and include compromise and settlements of proposed
18 tax assessments, final tax assessments, and tax liabilities
19 reflected by filed returns, judgments for taxes, and other proposed
20 or final tax assessments and liabilities, and applicable interest
21 and penalties.

22 The State Tax Commission or Commissioner shall develop
23 procedures for the receipt and consideration of offers in
24 compromise and settlement proposals. In considering and taking
25 action upon such offers and proposals, the State Tax Commission or
26 the Commissioner shall take into account:

27 (1) Controversy or doubt as to the taxpayer's liability for

28 the tax that is the subject of the offer in compromise
29 or settlement proposal;

30 (2) Controversy or doubt as to the collectability of the tax
31 that is the subject of the offer in compromise or
32 settlement proposal;

33 (3) That payment of the tax liability, or the interest or
34 penalty thereon, will render the taxpayer insolvent, or
35 incapable of continuing as a going business concern;

36 (4) That the taxpayer has had an offer in compromise
37 accepted by the Internal Revenue Service, or has
38 otherwise compromised or settled the federal tax
39 liability relating to the same or a similar type of
40 federal tax for the periods in question; and

41 (5) Hazards and costs of administrative proceedings and
42 litigation.

43 With respect to the compromise of interest or penalties, the
44 State Tax Commission or Commissioner shall take into account, in
45 addition to the factors listed above, whether the failure to pay
46 applicable tax resulted from a mistake of fact or law, made in good
47 faith.

48 A closing agreement or settlement agreement signed by the
49 Commissioner, or the Commissioner's designee, shall be final and
50 conclusive, and except upon a showing of fraud or misrepresentation
51 of a material fact, no additional assessment or collection shall be
52 made by the Commissioner or the State Tax Commission, and the
53 taxpayer shall not institute any judicial proceeding to recover the
54 taxpayer=s liabilities as agreed to in the closing agreement or
55 settlement agreement.

56 The Commissioner shall promulgate regulations to establish the
57 procedures for the receipt and consideration of offers in
58 compromise and settlement proposals, and for determining whether an
59 offer in compromise or settlement proposal is adequate and
60 acceptable to resolve tax liability.

61 SECTION 2. This act shall take effect and be in force from and
62 after passage.