HOUSE BILL NO. 226

Mississippi Legislature

By: Representative Fleming

To: Ways and Means

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2002

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AN ACT TO AMEND SECTION 27-7-53, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A TAXPAYER FILING AN INDIVIDUAL INCOME TAX RETURN WHO OWES ADDITIONAL INCOME TAX IN AN AMOUNT IN EXCESS OF $75.00 BUT NOT IN EXCESS OF $3,000.00, MAY REQUEST THAT THE CHAIRMAN OF THE STATE TAX COMMISSION ALLOW THE TAXPAYER TO PAY THE ADDITIONAL TAX THROUGH AN INSTALLMENT AGREEMENT; TO PROVIDE THAT THE CHAIRMAN OF THE STATE TAX COMMISSION MAY ALLOW SUCH A TAXPAYER TO PAY THE ADDITIONAL INCOME TAX THROUGH AN INSTALLMENT AGREEMENT IF THE CHAIRMAN OF THE STATE TAX COMMISSION DETERMINES THE TAXPAYER IS FINANCIALLY UNABLE TO PAY THE ADDITIONAL TAX AND CERTAIN OTHER CONDITIONS ARE SATISFIED; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-7-53, Mississippi Code of 1972, is amended as follows:

27-7-53. (1) (a) Except as otherwise provided in this section, if a return is timely filed by the taxpayer but the tax due is not paid, the commissioner shall make his assessment of tax due by mail or by personal delivery of the assessment to the taxpayer, which assessment shall constitute notice and demand for payment. The taxpayer shall be given a period of thirty (30) days from the date of the notice in which to pay the tax due, including penalty and interest as hereinafter provided, and if said sum is not paid within the period of thirty (30) days, the commissioner shall proceed to collect same under the provisions of Sections 27-7-55 to 27-7-67 of this article; provided that within said period of thirty (30) days the taxpayer may appeal as set out in Sections 27-7-71 and 27-7-73.

(b) (i) If an individual return is timely filed by the taxpayer and the amount of tax liability (determined without regard to interest, penalties, additions to the tax and additional amounts) of the taxpayer exceeds Seventy-five Dollars ($75.00) but

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does not exceed Three Thousand Dollars ($3,000.00), the taxpayer may request to pay the tax liability through an installment agreement. The taxpayer must file such a request with the return and must provide all information required by the commissioner. If the commissioner determines a taxpayer is financially unable to pay the tax liability, the commissioner may enter into an agreement to accept payment of the tax liability in installments if:

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

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

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

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

(iii) The commissioner may terminate an installment agreement entered into under this paragraph (b) if he determines the taxpayer provided inaccurate or incomplete information before the agreement was entered into or he believes the collection of the tax to which the agreement relates is in jeopardy.

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

1. Pay any installment due under the agreement;
2. Pay any other tax liability due under this chapter when the liability is due; or

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

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

(3) Interest at the rate of one percent (1%) per month from the due date of the return shall be added or assessed in addition to the tax due as hereinabove provided in subsections (1) and (2).

(4) In case of failure to file a return as required by this chapter, unless it can be shown that the failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on the return a penalty of five percent (5%) of the amount of the tax if the failure is for not more than one (1) month, with an additional five percent (5%) for each additional month or fraction thereof during which the failure continues, not to exceed twenty-five percent (25%) in the aggregate. Such failure to file a return penalty shall not be less than One Hundred Dollars ($100.00).
(5) In case of failure to pay the amount shown as tax on any return specified in subsections (1) and (2) of this section on or before the date prescribed for payment of the tax, determined with regard to any extension of time for payment or installment agreement, or both, unless it is shown that the failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on the return one-half of one percent (1/2 of 1%) of the amount of the tax if the failure is for not more than one (1) month, with an additional one-half of one percent (1/2 of 1%) for each additional month or fraction thereof during which the failure continues, not to exceed twenty-five percent (25%) in the aggregate.

SECTION 2. This act shall take effect and be in force from and after January 1, 2003.