

By: Representative Eads

To: Ways and Means

HOUSE BILL NO. 608

1 AN ACT TO AMEND SECTION 27-65-33, MISSISSIPPI CODE OF 1972,  
 2 TO INCREASE FROM \$20,000.00 TO \$30,000.00, THE AVERAGE MONTHLY  
 3 SALES TAX LIABILITY THAT A TAXPAYER REQUIRED TO COLLECT SALES TAX  
 4 MUST HAVE FOR THE PRECEDING CALENDAR YEAR BEFORE SUCH A TAXPAYER  
 5 IS REQUIRED TO PAY TO THE STATE TAX COMMISSION ON OR BEFORE JUNE  
 6 25, 2003, AND ON OR BEFORE THE TWENTY-FIFTH DAY OF JUNE OF EACH  
 7 SUCCEEDING YEAR THEREAFTER, AN AMOUNT EQUAL TO AT LEAST  
 8 SEVENTY-FIVE PERCENT OF THE TAXPAYER'S ESTIMATED SALES TAX  
 9 LIABILITY FOR THE MONTH OF JUNE OF THE CURRENT CALENDAR YEAR OR AN  
 10 AMOUNT EQUAL TO AT LEAST SEVENTY-FIVE PERCENT OF THE TAXPAYER'S  
 11 SALES TAX LIABILITY FOR THE MONTH OF JUNE OF THE PRECEDING  
 12 CALENDAR YEAR; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 27-65-33, Mississippi Code of 1972, is  
 15 amended as follows:

16 27-65-33. (1) Except as otherwise provided in this section,  
 17 the taxes levied by this chapter shall be due and payable on or  
 18 before the twentieth day of the month next succeeding the month in  
 19 which the tax accrues, except as otherwise provided. Returns and  
 20 payments placed in the mail must be postmarked by the due date in  
 21 order to be considered timely filed, except when the due date  
 22 falls on a weekend or holiday, returns and payments placed in the  
 23 mail must be postmarked by the first working day following the due  
 24 date in order to be considered timely filed. The taxpayer shall  
 25 make a return showing the gross proceeds of sales or the gross  
 26 income of the business, and any and all allowable deductions, or  
 27 exempt sales, and compute the tax due for the period covered.

28 As compensation for collecting sales and use taxes, complying  
 29 fully with the applicable statutes, filing returns and supplements  
 30 thereto and paying all taxes by the twentieth of the month  
 31 following the period covered, the taxpayer may discount and retain



32 two percent (2%) of the liability on each return subject to the  
33 following limitations:

34 (a) The compensation or discount shall not apply to  
35 taxes levied under the provisions of Sections 27-65-19 and  
36 27-65-21, or on charges for ginning cotton under Section 27-65-23.

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

39 (c) The compensation or discount shall not exceed Fifty  
40 Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00) per  
41 calendar year, per business location on each state sales tax  
42 return, or on each use tax return.

43 (d) The compensation or discount shall not apply to any  
44 wholesale tax, the rate of which is equal to or greater than the  
45 tax rate applicable to retail sales of the same property or  
46 service. The retailer of such items shall be entitled to the  
47 compensation based on the tax computed on retail sales before  
48 application of the credit for any tax paid to the wholesaler,  
49 jobber, or other person.

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

53 (2) A taxpayer required to collect sales taxes under this  
54 chapter and having an average monthly sales tax liability of at  
55 least Thirty Thousand Dollars (\$30,000.00) for the preceding  
56 calendar year shall pay to the State Tax Commission on or before  
57 June 25, 2003, and on or before the twenty-fifth day of June of  
58 each succeeding year thereafter, an amount equal to at least  
59 seventy-five percent (75%) of such taxpayer's estimated sales tax  
60 liability for the month of June of the current calendar year, or  
61 an amount equal to at least seventy-five percent (75%) of the  
62 taxpayer's sales tax liability for the month of June of the  
63 preceding calendar year. Payments required to be made under this  
64 subsection must be received by the State Tax Commission no later



65 than June 25 in order to be considered timely made. A taxpayer  
66 that fails to comply with the requirements of this subsection may  
67 be assessed a penalty in an amount equal to ten percent (10%) of  
68 the taxpayer's actual sales tax liability for the month of June  
69 for which the estimated payment was required to be made. Payments  
70 made by a taxpayer under this subsection shall not be considered  
71 to be collected for the purposes of any sales tax diversions  
72 required by law until the taxpayer files a return for the actual  
73 sales taxes collected during the month of June. This subsection  
74 shall not apply to any agency, department or instrumentality of  
75 the United States, any agency, department, institution,  
76 instrumentality or political subdivision of the State of  
77 Mississippi, or any agency, department, institution or  
78 instrumentality of any political subdivision of the State of  
79 Mississippi. Payments made pursuant to this subsection for the  
80 month of June 2003, shall be deposited by the State Tax Commission  
81 into the Budget Contingency Fund created under Section 27-103-301,  
82 and payments made pursuant to this subsection for the month of  
83 June of 2004, and each succeeding year thereafter, shall be  
84 deposited by the State Tax Commission into the State General Fund.

85 (3) All returns shall be sworn to by the taxpayer, if made  
86 by an individual, or by the president, vice president, secretary  
87 or treasurer of a corporation, or authorized agent, if made on  
88 behalf of a corporation. If made on behalf of a partnership,  
89 joint venture, association, trust, estate, or in any other group  
90 or combination acting as a unit, any individual delegated by such  
91 firm shall swear to the return on behalf of the taxpayer. The  
92 commissioner may prescribe methods by which the taxpayer may swear  
93 to his return.

94 (4) The commissioner may promulgate rules and regulations to  
95 require or permit filing periods of any duration, in lieu of  
96 monthly filing periods, for any taxpayer or group thereof.



97           (5) The commissioner may require the execution and filing by  
98 the taxpayer with the commissioner of a good and solvent bond with  
99 some surety company authorized to do business in Mississippi as  
100 surety thereon in an amount double the aggregate tax liability by  
101 such taxpayer for any previous three (3) months' period within the  
102 last calendar year or estimated three (3) months' tax liability.  
103 Said bond is to be conditioned for the prompt payment of such  
104 taxes as may be due for each such return.

105           (6) The commissioner, for good cause, may grant such  
106 reasonable additional time within which to make any return  
107 required under the provisions of this chapter as he may deem  
108 proper, but the time for filing any return shall not be extended  
109 beyond the twentieth of the month next succeeding the regular due  
110 date of the return without the imposition of interest at the rate  
111 of one percent (1%) per month or fractional part of a month from  
112 the time the return was due until the tax is paid.

113           (7) For persistent, willful, or recurring failure to make  
114 any return and pay the tax shown thereby to be due by the time  
115 specified, there shall be added to the amount of tax shown to be  
116 due ten percent (10%) damages, or interest at the rate of one  
117 percent (1%) per month, or both.

118           (8) Any taxpayer may, upon making application therefor,  
119 obtain from the commissioner an extension of time for the payment  
120 of taxes due on credit sales until collections thereon have been  
121 made. When such extension is granted, the taxpayer shall  
122 thereafter include in each monthly or quarterly report all  
123 collections made during the preceding month or quarter, and shall  
124 pay the taxes due thereon at the time of filing such report. Such  
125 permission may be revoked or denied at the discretion of the  
126 commissioner when, in his opinion, a total sales basis will best  
127 reflect the taxable income or expedite examination of the  
128 taxpayer's records.



129           (9) Any taxpayer reporting credit sales before collection  
130 thereof has been made may take credit on subsequent returns or  
131 reports for bad debts actually charged off, if such amounts  
132 charged off have previously been included in taxable gross income  
133 or taxable gross proceeds of sales, as the case may be, and the  
134 tax paid thereon. However, any amounts subsequently collected on  
135 accounts that have been charged off as bad debts shall be included  
136 in subsequent reports and the tax shall be paid thereon.

137           (10) In cases where an extension of time has been granted by  
138 the commissioner for payment of taxes due on credit sales and the  
139 taxpayer thereafter discontinues the business, such taxpayer shall  
140 be required to file with the commissioner within ten (10) days, or  
141 such further time as the commissioner may direct, from the date of  
142 the discontinuance of such business, a special report showing the  
143 amounts of any credit sales which have not been included in  
144 determining the measure of the tax previously paid and any other  
145 information with reference to credit sales as the commissioner may  
146 require. The commissioner shall thereupon investigate the facts  
147 with reference to credit sales and the condition of the accounts,  
148 and shall determine, from the best evidence available, the value  
149 of all open accounts, notes, or other evidence of debt arising  
150 from credit sales. The value of all notes, open accounts and  
151 other evidence of debt, as thus determined by the commissioner,  
152 shall be used in determining the amount of the tax for which such  
153 taxpayer shall be liable. When the amount of the tax shall have  
154 been ascertained, the taxpayer shall be required to pay the same  
155 within ten (10) days or such further time as the commissioner may  
156 allow, notwithstanding the fact that such note or accounts may  
157 still remain uncollected.

158           **SECTION 2.** This act shall take effect and be in force from  
159 and after its passage.

