

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1457

1 AN ACT TO AMEND SECTION 27-65-33, MISSISSIPPI CODE OF 1972,
2 TO ELIMINATE THE COMPENSATION OR DISCOUNT ALLOWED TO TAXPAYERS FOR
3 COLLECTING SALES TAXES AND USE TAXES AND FILING NECESSARY RETURNS
4 WITH THE STATE TAX COMMISSION; AND FOR RELATED PURPOSES.

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

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

8 27-65-33. (1) Except as otherwise provided in this section,
9 the taxes levied by this chapter shall be due and payable on or
10 before the twentieth day of the month next succeeding the month in
11 which the tax accrues, except as otherwise provided. Returns and
12 payments placed in the mail must be postmarked by the due date in
13 order to be considered timely filed, except when the due date
14 falls on a weekend or holiday, returns and payments placed in the
15 mail must be postmarked by the first working day following the due
16 date in order to be considered timely filed. The taxpayer shall
17 make a return showing the gross proceeds of sales or the gross
18 income of the business, and any and all allowable deductions, or
19 exempt sales, and compute the tax due for the period covered.

20 * * *

21 (2) A taxpayer required to collect sales taxes under this
22 chapter and having an average monthly sales tax liability of at
23 least Twenty Thousand Dollars (\$20,000.00) for the preceding
24 calendar year shall pay to the State Tax Commission on or before
25 June 25, 2003, and on or before the twenty-fifth day of June of
26 each succeeding year thereafter, an amount equal to at least
27 seventy-five percent (75%) of such taxpayer's estimated sales tax
28 liability for the month of June of the current calendar year, or

29 an amount equal to at least seventy-five percent (75%) of the
30 taxpayer's sales tax liability for the month of June of the
31 preceding calendar year. Payments required to be made under this
32 subsection must be received by the State Tax Commission no later
33 than June 25 in order to be considered timely made. A taxpayer
34 that fails to comply with the requirements of this subsection may
35 be assessed a penalty in an amount equal to ten percent (10%) of
36 the taxpayer's actual sales tax liability for the month of June
37 for which the estimated payment was required to be made. Payments
38 made by a taxpayer under this subsection shall not be considered
39 to be collected for the purposes of any sales tax diversions
40 required by law until the taxpayer files a return for the actual
41 sales taxes collected during the month of June. This subsection
42 shall not apply to any agency, department or instrumentality of
43 the United States, any agency, department, institution,
44 instrumentality or political subdivision of the State of
45 Mississippi, or any agency, department, institution or
46 instrumentality of any political subdivision of the State of
47 Mississippi. Payments made pursuant to this subsection for the
48 month of June 2003, shall be deposited by the State Tax Commission
49 into the Budget Contingency Fund created under Section 27-103-301,
50 and payments made pursuant to this subsection for the month of
51 June of 2004, and each succeeding year thereafter, shall be
52 deposited by the State Tax Commission into the State General Fund.

53 (3) All returns shall be sworn to by the taxpayer, if made
54 by an individual, or by the president, vice president, secretary
55 or treasurer of a corporation, or authorized agent, if made on
56 behalf of a corporation. If made on behalf of a partnership,
57 joint venture, association, trust, estate, or in any other group
58 or combination acting as a unit, any individual delegated by such
59 firm shall swear to the return on behalf of the taxpayer. The
60 commissioner may prescribe methods by which the taxpayer may swear
61 to his return.

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

65 (5) The commissioner may require the execution and filing by
66 the taxpayer with the commissioner of a good and solvent bond with
67 some surety company authorized to do business in Mississippi as
68 surety thereon in an amount double the aggregate tax liability by
69 such taxpayer for any previous three (3) months' period within the
70 last calendar year or estimated three (3) months' tax liability.
71 Said bond is to be conditioned for the prompt payment of such
72 taxes as may be due for each such return.

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

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

86 (8) Any taxpayer may, upon making application therefor,
87 obtain from the commissioner an extension of time for the payment
88 of taxes due on credit sales until collections thereon have been
89 made. When such extension is granted, the taxpayer shall
90 thereafter include in each monthly or quarterly report all
91 collections made during the preceding month or quarter, and shall
92 pay the taxes due thereon at the time of filing such report. Such
93 permission may be revoked or denied at the discretion of the
94 commissioner when, in his opinion, a total sales basis will best

95 reflect the taxable income or expedite examination of the
96 taxpayer's records.

97 (9) Any taxpayer reporting credit sales before collection
98 thereof has been made may take credit on subsequent returns or
99 reports for bad debts actually charged off, if such amounts
100 charged off have previously been included in taxable gross income
101 or taxable gross proceeds of sales, as the case may be, and the
102 tax paid thereon. However, any amounts subsequently collected on
103 accounts that have been charged off as bad debts shall be included
104 in subsequent reports and the tax shall be paid thereon.

105 (10) In cases where an extension of time has been granted by
106 the commissioner for payment of taxes due on credit sales and the
107 taxpayer thereafter discontinues the business, such taxpayer shall
108 be required to file with the commissioner within ten (10) days, or
109 such further time as the commissioner may direct, from the date of
110 the discontinuance of such business, a special report showing the
111 amounts of any credit sales which have not been included in
112 determining the measure of the tax previously paid and any other
113 information with reference to credit sales as the commissioner may
114 require. The commissioner shall thereupon investigate the facts
115 with reference to credit sales and the condition of the accounts,
116 and shall determine, from the best evidence available, the value
117 of all open accounts, notes, or other evidence of debt arising
118 from credit sales. The value of all notes, open accounts and
119 other evidence of debt, as thus determined by the commissioner,
120 shall be used in determining the amount of the tax for which such
121 taxpayer shall be liable. When the amount of the tax shall have
122 been ascertained, the taxpayer shall be required to pay the same
123 within ten (10) days or such further time as the commissioner may
124 allow, notwithstanding the fact that such note or accounts may
125 still remain uncollected.

126 **SECTION 2.** This act shall take effect and be in force from
127 and after July 1, 2004.