

**Adopted**  
**COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 1460**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

11        **SECTION 1.**    As use in this act:

12                    (a)   "Debt" means a past due, legally enforceable state  
13 or federal income tax obligation, unless otherwise indicated.

14                    (b)   "Debtor" means a person who owes a state or federal  
15 income tax obligation.

16                    (c)   "Past due, legally enforceable obligation" means a  
17 debt resulting from:

18                    (i)   A judgment rendered by a court of competent  
19 jurisdiction which has determined an amount of income tax to be  
20 due;

21                    (ii)   A determination after an administrative  
22 hearing which has determined an amount of income tax to be due and  
23 which is no longer subject to judicial review; or

24                    (iii)   An income tax assessment, including  
25 self-assessments, which has become final in accordance with law,  
26 but which has not been collected.

27                    (d)   "State" means the State of Mississippi acting  
28 through the State Tax Commission.

29           (e) "Federal government" means the United States  
30 Department of the Treasury or any agency under its administration.

31           (f) "Tax refund offset" means withholding or reducing a  
32 tax refund overpayment by an amount necessary to satisfy a debt  
33 owed by the payee.

34           (g) "Tax refund payment" means any overpayment of taxes  
35 to be refunded to the person making the overpayment.

36       **SECTION 2.** (1) The federal government may submit  
37 information on any past due, legally enforceable obligation to the  
38 State Tax Commission for collection through a tax refund offset.  
39 The state may submit information on any past due, legally  
40 enforceable obligation to the federal government for collection  
41 through a tax refund offset.

42       (2) Upon receiving notice from the federal government that a  
43 named person owes a past due, legally enforceable obligation, the  
44 State Tax Commission shall:

45           (a) Reduce the amount of any tax refund payment payable  
46 to the named person by the amount of the past due, legally  
47 enforceable obligation owed the federal government and, if the tax  
48 refund exceeds the obligation, remit the excess to the person;

49           (b) Pay the amount by which the refund payment is  
50 reduced under paragraph (a) of this subsection to the federal  
51 government and notify the federal government of the person's name,  
52 taxpayer identification number, address and the amount collected;  
53 and

54           (c) Notify the named person that the tax refund payment  
55 has been reduced by an amount necessary to satisfy a past due,  
56 legally enforceable obligation.

57       (3) Upon receiving from the federal government the amount  
58 collected from a person who owes the state a past due, legally  
59 enforceable obligation, the State Tax Commission shall apply the

60 amount to the person's state debt and reduce the person's  
61 obligation by the amount collected.

62       **SECTION 3.** Section 27-7-83, Mississippi Code of 1972, is  
63 amended as follows:

64       27-7-83. (1) Returns and return information filed or  
65 furnished under the provisions of this chapter shall be  
66 confidential, and except in accordance with proper judicial order,  
67 or as otherwise authorized by this section, it shall be unlawful  
68 for members of the State Tax Commission or members of the  
69 Mississippi Department of Information Technology Services, any  
70 deputy, agent, clerk or other officer or employee thereof, or any  
71 former employee thereof, to divulge or make known in any manner  
72 the amount of income or any particulars set forth or disclosed in  
73 any report or return required. The provisions of this section  
74 shall apply fully to any federal return, a copy of any portion of  
75 a federal return, or any information reflected on a federal return  
76 which is attached to or made a part of the state tax return.  
77 Likewise, the provisions of this section shall apply to any  
78 federal return or portion thereof, or to any federal return  
79 information data which is acquired from the Internal Revenue  
80 Service for state tax administration purposes pursuant to the  
81 Federal-State Exchange Program cited at Section 6103, Federal  
82 Internal Revenue Code. The term "proper judicial order" as used  
83 in this section shall not include subpoenas or subpoenas duces  
84 tecum, but shall include only those orders entered by a court of  
85 record in this state after furnishing notice and a hearing to the  
86 taxpayer and the State Tax Commission. The court shall not  
87 authorize the furnishing of such information unless it is  
88 satisfied that the information is needed to pursue pending  
89 litigation wherein the return itself is in issue, or the judge is  
90 satisfied that the need for furnishing the information outweighs  
91 the rights of the taxpayer to have such information secreted.

(2) Returns and return information with respect to taxes imposed by this chapter shall be open to inspection by or disclosure to the Commissioner of the Internal Revenue Service of the United States, or the proper officer of any state imposing an income tax similar to that imposed by this chapter, or the authorized representatives of such agencies. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agencies, or the district director in the case of the Internal Revenue Service, and only to the representatives of such agencies designated in a written statement to the commissioner as the individuals who are to inspect or to receive the return or return information on behalf of such agency. The commissioner is authorized to enter into agreements with the Internal Revenue Service and with other states for the exchange of returns and return information data, or the disclosure of returns or return information data to such agencies, only to the extent that the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of the tax laws of this state.

(3) (a) The return of a person shall, upon written request, be open to inspection by or disclosure to:

(i) In the case of the return of an individual, that individual;

(ii) In the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

(iii) In the case of the return of a partnership, any person who was a member of such partnership during any part of the period covered by the return;

(iv) In the case of the return of a corporation or a subsidiary thereof, any person designated by resolution of its

board of directors or other similar governing body, or any officer or employee of such corporation upon written request signed by any principal officer and attested to by the secretary or other officer;

(v) In the case of the return of an estate, the administrator, executor or trustee of such estate, and any heir at law, next of kin or beneficiary under the will, of the decedent, but only to the extent that such latter persons have a material interest which will be affected by information contained therein;

(vi) In the case of the return of a trust, the trustee or trustees, jointly or separately, and any beneficiary of such trust, but only to the extent that such beneficiary has a material interest which will be affected by information contained therein;

(vii) In the case of the return of an individual or a return filed jointly, any claimant agency seeking to collect a debt through the set-off procedure established in Sections 27-7-701 through 27-7-713 and Sections 27-7-501 through 27-7-519, from an individual with respect to whom the return is filed.

(b) If an individual described in paragraph (a) is legally incompetent, the applicable return shall, upon written request, be open to inspection by or disclosure to the committee, trustee or guardian of his estate.

(c) If substantially all of the property of the person with respect to whom the return is filed is in the hands of a trustee in bankruptcy or receiver, such return or returns for prior years of such person shall, upon written request, be open to inspection by or disclosure to such trustee or receiver, but only if the commissioner finds that such receiver or trustee, in his fiduciary capacity, has a material interest which will be affected by information contained therein.

155           (d) Any return to which this section applies shall,  
156 upon written request, also be open to inspection by or disclosure  
157 to the attorney-in-fact duly authorized in writing by any of the  
158 persons described in paragraph (a) of this subsection to inspect  
159 the return or receive the information on his behalf, subject to  
160 the conditions provided in paragraph (a).

161           (e) Return information with respect to any taxpayer may  
162 be open to inspection by or disclosure to any person authorized by  
163 this subsection to inspect any return of such taxpayer if the  
164 commissioner determines that such disclosure would not seriously  
165 impair state tax administration.

166           (4) The State Auditor and the employees of his office shall  
167 have the right to examine only such tax returns as are necessary  
168 for auditing the State Tax Commission, and the same prohibitions  
169 against disclosure which apply to the State Tax Commission shall  
170 apply to the State Auditor and his employees or former employees.

171           (5) Nothing herein shall be construed to prohibit the  
172 publication of statistics, so classified as to prevent the  
173 identification of particular reports or returns and the items  
174 thereof, or the inspection by the Attorney General, or any other  
175 attorney representing the state, of the report or return of any  
176 taxpayer who shall bring action to set aside the tax thereon, or  
177 against whom any action or proceeding has been instituted to  
178 recover any tax or penalty imposed.

179           (6) Nothing in this section shall prohibit the chairman of  
180 the commission from making available information necessary to  
181 recover taxes owing the state pursuant to the authority granted in  
182 Section 27-75-16, Mississippi Code of 1972.

183           (7) Reports and returns required under the provisions of  
184 this chapter shall be preserved in accordance with approved  
185 records control schedules. No records, however, may be destroyed

186 without the approval of the Director of the Department of Archives  
187 and History.

188 (8) The commission is authorized to disclose to the Child  
189 Support Unit of the Department of Human Services the name,  
190 address, social security number, amount of income, source of  
191 income and assets for individuals who are delinquent in the  
192 payment of any child support as defined in Section 93-11-101,  
193 Mississippi Code of 1972.

194 (9) Nothing in this section shall prohibit the commission  
195 from exchanging information with the federal government that is  
196 necessary to offset income tax refund payment on debts owed to  
197 this state of the United States.

198 **SECTION 4.** This act shall take effect and be in force from  
199 and after its passage.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AUTHORIZE THE STATE TAX COMMISSION TO OFFSET STATE  
2 INCOME TAX REFUNDS TO TAXPAYERS AGAINST THE TAXPAYER'S PAST DUE,  
3 LEGALLY ENFORCEABLE PAST DUE FEDERAL INCOME TAX PAYMENTS AND PAY  
4 THE AMOUNT OFFSET TO THE FEDERAL GOVERNMENT; TO AUTHORIZE THE  
5 STATE TAX COMMISSION TO RECEIVE FROM THE FEDERAL GOVERNMENT  
6 AMOUNTS COLLECTED FROM PERSONS OWING PAST DUE, LEGALLY ENFORCEABLE  
7 INCOME TAX PAYMENTS TO THE STATE AND APPLY THE AMOUNT RECEIVED TO  
8 THE AMOUNT THE PERSON OWES; TO AMEND SECTION 27-7-83, MISSISSIPPI  
9 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.