

By: Representative Lott

To: Ways and Means

HOUSE BILL NO. 427

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAXATION THE SALE OF TANGIBLE PERSONAL
3 PROPERTY FOR USE IN THE PERFORMANCE OF A CONTRACT FOR AN
4 IMPROVEMENT TO REALTY FOR A CHURCH OR RELIGIOUS INSTITUTION AND TO
5 EXEMPT THE SALE OF SERVICES FOR USE IN THE PERFORMANCE OF SUCH A
6 CONTRACT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 27-65-111, Mississippi Code of 1972, is
9 amended as follows:

10 27-65-111. The exemptions from the provisions of this
11 chapter which are not industrial, agricultural or governmental, or
12 which do not relate to utilities or taxes, or which are not
13 properly classified as one of the exemption classifications of
14 this chapter, shall be confined to persons or property exempted by
15 this section or by the Constitution of the United States or the
16 State of Mississippi. No exemptions as now provided by any other
17 section, except the classified exemption sections of this chapter
18 set forth herein, shall be valid as against the tax herein levied.
19 Any subsequent exemption from the tax levied hereunder, except as
20 indicated above, shall be provided by amendments to this section.

21 No exemption provided in this section shall apply to taxes
22 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

23 The tax levied by this chapter shall not apply to the
24 following:

- 25 (a) Sales of tangible personal property and services to
- 26 hospitals or infirmaries owned and operated by a corporation or
- 27 association in which no part of the net earnings inures to the
- 28 benefit of any private shareholder, group or individual, and which
- 29 are subject to and governed by Sections 41-7-123 through 41-7-127.

30 Only sales of tangible personal property or services which
31 are ordinary and necessary to the operation of such hospitals and
32 infirmaries are exempted from tax.

33 (b) Sales of daily or weekly newspapers, and
34 periodicals or publications of scientific, literary or educational
35 organizations exempt from federal income taxation under Section
36 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
37 March 31, 1975, and subscription sales of all magazines.

38 (c) Sales of coffins, caskets and other materials used
39 in the preparation of human bodies for burial.

40 (d) Sales of tangible personal property for immediate
41 export to a foreign country.

42 (e) Sales of tangible personal property to an
43 orphanage, old men's or ladies' home, supported wholly or in part
44 by a religious denomination, fraternal nonprofit organization or
45 other nonprofit organization.

46 (f) Sales of tangible personal property, labor or
47 services taxable under Sections 27-65-17, 27-65-19 and 27-65-23,
48 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a
49 corporation or association in which no part of the net earnings
50 inures to the benefit of any private shareholder, group or
51 individual.

52 (g) Sales to elementary and secondary grade schools,
53 junior and senior colleges owned and operated by a corporation or
54 association in which no part of the net earnings inures to the
55 benefit of any private shareholder, group or individual, and which
56 are exempt from state income taxation, provided that this
57 exemption does not apply to sales of property or services which
58 are not to be used in the ordinary operation of the school, or
59 which are to be resold to the students or the public.

60 (h) The gross proceeds of retail sales and the use or
61 consumption in this state of drugs and medicines:

62 (i) Prescribed for the treatment of a human being
63 by a person authorized to prescribe the medicines, and dispensed
64 or prescription filled by a registered pharmacist in accordance
65 with law; or

66 (ii) Furnished by a licensed physician, surgeon,
67 dentist or podiatrist to his own patient for treatment of the
68 patient; or

69 (iii) Furnished by a hospital for treatment of any
70 person pursuant to the order of a licensed physician, surgeon,
71 dentist or podiatrist; or

72 (iv) Sold to a licensed physician, surgeon,
73 podiatrist, dentist or hospital for the treatment of a human
74 being; or

75 (v) Sold to this state or any political
76 subdivision or municipal corporation thereof, for use in the
77 treatment of a human being or furnished for the treatment of a
78 human being by a medical facility or clinic maintained by this
79 state or any political subdivision or municipal corporation
80 thereof.

81 "Medicines," as used in this paragraph (h), shall mean and
82 include any substance or preparation intended for use by external
83 or internal application to the human body in the diagnosis, cure,
84 mitigation, treatment or prevention of disease and which is
85 commonly recognized as a substance or preparation intended for
86 such use; provided that "medicines" do not include any auditory,
87 prosthetic, ophthalmic or ocular device or appliance, any dentures
88 or parts thereof or any artificial limbs or their replacement
89 parts, articles which are in the nature of splints, bandages,
90 pads, compresses, supports, dressings, instruments, apparatus,
91 contrivances, appliances, devices or other mechanical, electronic,
92 optical or physical equipment or article or the component parts
93 and accessories thereof, or any alcoholic beverage or any other
94 drug or medicine not commonly referred to as a prescription drug.

95 Notwithstanding the preceding sentence of this paragraph (h),
96 "medicines" as used in this paragraph (h), shall mean and include
97 sutures, whether or not permanently implanted, bone screws, bone
98 pins, pacemakers and other articles permanently implanted in the
99 human body to assist the functioning of any natural organ, artery,
100 vein or limb and which remain or dissolve in the body.

101 "Hospital," as used in this paragraph (h), shall have the
102 meaning ascribed to it in Section 41-9-3, Mississippi Code of
103 1972.

104 Insulin furnished by a registered pharmacist to a person for
105 treatment of diabetes as directed by a physician shall be deemed
106 to be dispensed on prescription within the meaning of this
107 paragraph (h).

108 (i) Retail sales of automobiles, trucks and
109 truck-tractors if exported from this state within forty-eight (48)
110 hours and registered and first used in another state.

111 (j) Sales of tangible personal property or services to
112 the Salvation Army and the Muscular Dystrophy Association, Inc.

113 (k) From July 1, 1985, through December 31, 1992,
114 retail sales of "alcohol blended fuel" as such term is defined in
115 Section 75-55-5. The gasoline-alcohol blend or the straight
116 alcohol eligible for this exemption shall not contain alcohol
117 distilled outside the State of Mississippi.

118 (l) Sales of tangible personal property or services to
119 the Institute for Technology Development.

120 (m) The gross proceeds of retail sales of food and
121 drink for human consumption made through vending machines serviced
122 by full line vendors from and not connected with other taxable
123 businesses.

124 (n) The gross proceeds of sales of motor fuel.

125 (o) Retail sales of food for human consumption
126 purchased with food stamps issued by the United States Department
127 of Agriculture, or other federal agency, from and after October 1,

128 1987, or from and after the expiration of any waiver granted
129 pursuant to federal law, the effect of which waiver is to permit
130 the collection by the state of tax on such retail sales of food
131 for human consumption purchased with food stamps.

132 (p) Sales of cookies for human consumption by the Girl
133 Scouts of America no part of the net earnings from which sales
134 inures to the benefit of any private group or individual.

135 (q) Gifts or sales of tangible personal property or
136 services to public or private nonprofit museums of art.

137 (r) Sales of tangible personal property or services to
138 alumni associations of state-supported colleges or universities.

139 (s) Sales of tangible personal property or services to
140 chapters of the National Association of Junior Auxiliaries, Inc.

141 (t) Sales of tangible personal property or services to
142 domestic violence shelters which qualify for state funding under
143 Sections 93-21-101 through 93-21-113.

144 (u) Sales of tangible personal property or services to
145 the National Multiple Sclerosis Society, Mississippi Chapter.

146 (v) Retail sales of food for human consumption
147 purchased with food instruments issued the Mississippi Band of
148 Choctaw Indians under the Women, Infants and Children Program
149 (WIC) funded by the United States Department of Agriculture.

150 (w) Sales of tangible personal property or services to
151 a private company, as defined in Section 57-61-5, which is making
152 such purchases with proceeds of bonds issued under Section 57-61-1
153 et seq., the Mississippi Business Investment Act.

154 (x) The gross collections from the operation of
155 self-service, coin-operated car washing equipment and sales of the
156 service of washing motor vehicles with portable high-pressure
157 washing equipment on the premises of the customer.

158 (y) Sales of tangible personal property or services to
159 the Mississippi Technology Alliance.

160 (z) Sales of tangible personal property for use in the
161 performance of a contract for an improvement to realty for a
162 church or religious association exempt from federal income
163 taxation under Section 501(c)(3) of the Internal Revenue Code of
164 1954, as it exists on the effective date of this act, if the
165 tangible personal property is:

166 (i) Incorporated into realty in the performance of
167 the contract;

168 (ii) Necessary and essential for the performance
169 of the contract; and

170 (iii) Completely consumed at the job site.

171 For purposes of this paragraph (z), tangible personal
172 property is completely consumed if, after being used once for its
173 intended purpose, it is used up or destroyed. Tangible personal
174 property that is rented or leased for use in the performance of
175 the contract cannot be completely consumed for the purposes of
176 this paragraph (z).

177 (aa) Sales of services for use in the performance of a
178 contract for an improvement to realty for a church or religious
179 association exempt from federal income taxation under Section
180 501(c)(3) of the Internal Revenue Code, as it existed on the
181 effective date of this act, if the service is performed at the job
182 site and if:

183 (i) The contract expressly requires the specific
184 service to be provided or purchased by the person performing the
185 contract; or

186 (ii) The service is integral to the performance of
187 the contract.

188 **SECTION 2.** Nothing in this act shall affect or defeat any
189 claim, assessment, appeal, suit, right or cause of action for
190 taxes due or accrued under the sales tax laws before the date on
191 which this act becomes effective, whether such claims,
192 assessments, appeals, suits or actions have been begun before the

193 date on which this act becomes effective or are begun thereafter;
194 and the provisions of the sales tax laws are expressly continued
195 in full force, effect and operation for the purpose of the
196 assessment, collection and enrollment of liens for any taxes due
197 or accrued and the execution of any warrant under such laws before
198 the date on which this act becomes effective, and for the
199 imposition of any penalties, forfeitures or claims for failure to
200 comply with such laws.

201 **SECTION 3.** This act shall take effect and be in force from
202 and after July 1, 2005.