

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2751

1 AN ACT TO AMEND SECTION 27-65-55, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT OFFICERS AND AGENTS OF PERSONS HAVING CONTROL OVER
3 THE PAYMENT OF TAXES AND WHO EXERCISE RESPONSIBILITY FOR FISCAL
4 MANAGEMENT, SHALL BE JOINTLY AND SEVERALLY LIABLE FOR SALES TAXES;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 27-65-55, Mississippi Code of 1972, is
8 amended as follows:

9 27-65-55. (1) The tax imposed by this chapter shall be a
10 lien upon the property of any person subject to the provisions
11 thereof who shall sell out his business or stock of goods, or
12 shall quit business, and such person shall be required to make out
13 the return provided for under Section 27-65-33 within ten (10)
14 days after the date he sold out his business or stock of goods, or
15 quit business, and pay the tax imposed by this chapter. The
16 purchaser or transferee in business shall be required to withhold
17 sufficient of the purchase money to cover the amount of any taxes,
18 damages and interest due until such time as the former owner shall
19 produce a receipt from the commissioner showing that such
20 liability has been paid, or a certificate that no taxes are due.
21 In the event the former owner shall fail to pay any taxes, damages
22 and interest due the state within the time allowed, the successor
23 in business shall pay such taxes, damages and interest to the
24 commissioner upon demand. If the purchaser or transferee of a
25 business or stock of goods shall fail to withhold purchase money
26 as provided and the taxes, damages and interest shall be due and
27 unpaid after the period of ten (10) days allowed, he shall be
28 personally liable for the payment of taxes, damages and interest

29 of the former owner, and the property sold or transferred may be
30 proceeded against by the commissioner in the hands of the
31 purchaser or transferee as though no sale or transfer had been
32 made.

33 (2) Any person who exercises responsibility for fiscal
34 management and owns * * * ten percent (10%) or more of the * * *
35 stock of a corporation, owns ten percent (10%) or more interest in
36 a limited liability company, * * * or is an officer or agent of
37 the person having control over the collection or payment of taxes
38 shall be jointly and severally liable for sales taxes levied by
39 this chapter upon such corporations or limited liability companies
40 when such taxes become due and unpaid to the extent that such
41 taxes accrued while such person was exercising responsibility for
42 fiscal management. The commissioner shall make assessments
43 against said persons of such taxes, damages and interest, and
44 effect collection by the same procedures herein provided for
45 assessment and collection of all taxes levied by this chapter.

46 (3) Any person, acting as agent for a dealer who has no
47 permanent place of business in this state, who sells tangible
48 personal property in this state, either at auction or as a
49 transient vendor, shall be liable for collection of sales tax,
50 where applicable, and payment of the same of this state unless the
51 vendor principal is authorized to collect the tax and is
52 registered under Section 27-65-27. Such persons shall maintain
53 for a period of three (3) years adequate records which shall be
54 available for inspection by the commissioner or his agent and
55 which shall reveal the true sales tax liability of all parties to
56 each transaction. Failure to maintain and permit examination of
57 such records shall render the agent liable for sales tax accruing
58 from all sales as determined by the commissioner from any
59 information available. The commissioner shall effect collection
60 by the same procedures herein provided for assessment and
61 collection of all taxes levied by this chapter.

62 **SECTION 2.** This act shall take effect and be in force from
63 and after July 1, 2005.