

By: Representative Mayo

To: Ways and Means

HOUSE BILL NO. 345

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAXATION SALES OF TANGIBLE PERSONAL PROPERTY
3 AND SERVICES TO NONPROFIT ORGANIZATIONS THAT ARE TAX EXEMPT UNDER
4 SECTION 501(C) OF THE UNITED STATES INTERNAL REVENUE CODE IF SUCH
5 PROPERTY OR SERVICES ARE USED FOR THE PURPOSE OF PROVIDING
6 ASSISTANCE RELATED TO A DISASTER FOR WHICH A DISASTER DECLARATION
7 IS ISSUED BY THE GOVERNOR OF THE STATE; AND FOR RELATED PURPOSES.

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

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

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

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

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

- 26 (a) Sales of tangible personal property and services to
27 hospitals or infirmaries owned and operated by a corporation or
28 association in which no part of the net earnings inures to the

29 benefit of any private shareholder, group or individual, and which
30 are subject to and governed by Sections 41-7-123 through 41-7-127.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

94 and accessories thereof, or any alcoholic beverage or any other
95 drug or medicine not commonly referred to as a prescription drug.

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

102 "Hospital," as used in this paragraph (h), shall have the
103 meaning ascribed to it in Section 41-9-3, Mississippi Code of
104 1972.

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

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

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

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

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

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

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

126 (o) Retail sales of food for human consumption
127 purchased with food stamps issued by the United States Department
128 of Agriculture, or other federal agency, from and after October 1,
129 1987, or from and after the expiration of any waiver granted
130 pursuant to federal law, the effect of which waiver is to permit
131 the collection by the state of tax on such retail sales of food
132 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

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

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

161 (z) Sales of tangible personal property or services to
162 nonprofit organizations that are tax exempt under Section 501(c)
163 of the United States Internal Revenue Code if such property or
164 services are used by a nonprofit organization for the purpose of
165 providing assistance related to a disaster for which a disaster
166 declaration is issued by the Governor of the State of Mississippi.

167 **SECTION 2.** Nothing in this act shall affect or defeat any
168 claim, assessment, appeal, suit, right or cause of action for
169 taxes due or accrued under the sales tax laws before the date on
170 which this act becomes effective, whether such claims,
171 assessments, appeals, suits or actions have been begun before the
172 date on which this act becomes effective or are begun thereafter;
173 and the provisions of the sales tax laws are expressly continued
174 in full force, effect and operation for the purpose of the
175 assessment, collection and enrollment of liens for any taxes due
176 or accrued and the execution of any warrant under such laws before
177 the date on which this act becomes effective, and for the
178 imposition of any penalties, forfeitures or claims for failure to
179 comply with such laws.

180 **SECTION 3.** This act shall take effect and be in force from
181 and after July 1, 2006.