

By: Representative Broomfield

To: Ways and Means

HOUSE BILL NO. 1477

1 AN ACT TO AMEND SECTION 27-65-23, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE REPAIRING AND SERVICING OF AIRCRAFT FROM THE
3 ACTIVITIES TAXED UNDER THE SALES TAX LAW; TO REMOVE THE REPAIRING
4 OR SERVICING OF AIRCRAFT NOT REGISTERED IN MISSISSIPPI ENGAGED
5 EXCLUSIVELY IN THE BUSINESS OF FOREIGN OR INTERSTATE
6 TRANSPORTATION AS AN EXCEPTION TO THE SALES TAX LAW; TO AMEND
7 SECTION 27-65-101, MISSISSIPPI CODE OF 1972, IN CONFORMITY
8 THERETO; AND FOR RELATED PURPOSES.

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

10 SECTION 1. Section 27-65-23, Mississippi Code of 1972, is
11 amended as follows:

12 27-65-23. Upon every person engaging or continuing in any of
13 the following businesses or activities there is hereby levied,
14 assessed and shall be collected a tax equal to seven percent (7%)
15 of the gross income of the business, except as otherwise provided:

- 16 Air conditioning installation or repairs;
- 17 Automobile, * * * motorcycle, boat or any other vehicle
- 18 repairing or servicing * * *;
- 19 Billiards, pool or domino parlors;
- 20 Bowling or tenpin alleys;
- 21 Burglar and fire alarm systems or services;
- 22 Car washing--automatic, self-service, or manual;
- 23 Computer software sales and services;
- 24 Cotton compresses or cotton warehouses;
- 25 Custom creosoting or treating, custom planing, custom
- 26 sawing;
- 27 Custom meat processing;
- 28 Electricians, electrical work, wiring, all repairs or
- 29 installation of electrical equipment;

30 Elevator or escalator installing, repairing or
31 servicing;
32 Film developing or photo finishing;
33 Foundries, machine or general repairing;
34 Furniture repairing or upholstering;
35 Grading, excavating, ditching, dredging or landscaping;
36 Hotels, motels, tourist courts or camps, trailer parks;
37 Insulating services or repairs;
38 Jewelry or watch repairing;
39 Laundering, cleaning, pressing or dyeing;
40 Marina services;
41 Mattress renovating;
42 Office and business machine repairing;
43 Parking garages and lots;
44 Plumbing or pipe fitting;
45 Public storage warehouses (There shall be no tax levied
46 on gross income of a public storage warehouse derived from the
47 temporary storage of tangible personal property in this state
48 pending shipping or mailing of the property to another state);
49 Refrigerating equipment repairs;
50 Radio or television installing, repairing, or servicing;
51 Renting or leasing personal property used within this
52 state;
53 Services performed in connection with geophysical
54 surveying, exploring, developing, drilling, producing,
55 distributing, or testing of oil, gas, water and other mineral
56 resources;
57 Shoe repairing;
58 Storage lockers;
59 Telephone answering or paging services;
60 Termite or pest control services;
61 Tin and sheet metal shops;

62 TV cable systems, subscription TV services, and other
63 similar activities;

64 Vulcanizing, repairing or recapping of tires or tubes;
65 Welding; and

66 Woodworking or wood turning shops.

67 Income from services taxed herein performed for electric
68 power associations in the ordinary and necessary operation of
69 their generating or distribution systems shall be taxed at the
70 rate of one percent (1%).

71 Income from services taxed herein performed on materials for
72 use in track or track structures to a railroad whose rates are
73 fixed by the Interstate Commerce Commission or the Mississippi
74 Public Service Commission shall be taxed at the rate of three
75 percent (3%).

76 Income from renting or leasing tangible personal property
77 used within this state shall be taxed at the same rates as sales
78 of the same property.

79 Persons doing business in this state who rent transportation
80 equipment with a situs within or without the state to common,
81 contract or private commercial carriers are taxed on that part of
82 the income derived from use within this state. If specific
83 accounting is impracticable, a formula may be used with approval
84 of the commissioner.

85 A lessor may deduct from the tax computed on the rental
86 income from tangible personal property a credit for sales or use
87 tax paid to this state at the time of purchase of the specific
88 personal property being leased or rented until such credit has
89 been exhausted.

90 Charges for custom processing and repairing services may be
91 excluded from gross taxable income when the property on which the
92 service was performed is delivered to the customer in another
93 state either by common carrier or in the seller's equipment.

94 When a taxpayer performs unitary services covered by this
95 section, which are performed both in intrastate and interstate
96 commerce, the commissioner is hereby invested with authority to
97 formulate in each particular case and to fix for such taxpayer in
98 each instance formulae of apportionment which will apportion to
99 this state, for taxation, that portion of the services which are
100 performed within the State of Mississippi.

101 **SECTION 2.** Section 27-65-101, Mississippi Code of 1972, is
102 amended as follows:

103 27-65-101. (1) The exemptions from the provisions of this
104 chapter which are of an industrial nature or which are more
105 properly classified as industrial exemptions than any other
106 exemption classification of this chapter shall be confined to
107 those persons or property exempted by this section or by the
108 provisions of the Constitution of the United States or the State
109 of Mississippi. No industrial exemption as now provided by any
110 other section except Section 57-3-33 shall be valid as against the
111 tax herein levied. Any subsequent industrial exemption from the
112 tax levied hereunder shall be provided by amendment to this
113 section. No exemption provided in this section shall apply to
114 taxes levied by Section 27-65-15 or 27-65-21.

115 The tax levied by this chapter shall not apply to the
116 following:

117 (a) Sales of boxes, crates, cartons, cans, bottles and
118 other packaging materials to manufacturers and wholesalers for use
119 as containers or shipping materials to accompany goods sold by
120 said manufacturers or wholesalers where possession thereof will
121 pass to the customer at the time of sale of the goods contained
122 therein and sales to anyone of containers or shipping materials
123 for use in ships engaged in international commerce.

124 (b) Sales of raw materials, catalysts, processing
125 chemicals, welding gases or other industrial processing gases
126 (except natural gas) to a manufacturer for use directly in

127 manufacturing or processing a product for sale or rental or
128 repairing or reconditioning vessels or barges of fifty (50) tons
129 load displacement and over. For the purposes of this exemption,
130 electricity used directly in the electrolysis process in the
131 production of sodium chlorate shall be considered a raw material.
132 This exemption shall not apply to any property used as fuel except
133 to the extent that such fuel comprises by-products which have no
134 market value.

135 (c) The gross proceeds of sales of dry docks, offshore
136 drilling equipment for use in oil exploitation or production,
137 vessels or barges of fifty (50) tons load displacement and over,
138 when sold by the manufacturer or builder thereof.

139 (d) Sales to commercial fishermen of commercial fishing
140 boats of over five (5) tons load displacement and not more than
141 fifty (50) tons load displacement as registered with the United
142 States Coast Guard and licensed by the Mississippi Commission on
143 Marine Resources.

144 (e) The gross income from repairs to vessels and barges
145 engaged in foreign trade or interstate transportation.

146 (f) Sales of petroleum products to vessels or barges
147 for consumption in marine international commerce or interstate
148 transportation businesses.

149 (g) Sales and rentals of rail rolling stock (and
150 component parts thereof) for ultimate use in interstate commerce
151 and gross income from services with respect to manufacturing,
152 repairing, cleaning, altering, reconditioning or improving such
153 rail rolling stock (and component parts thereof).

154 (h) Sales of raw materials, catalysts, processing
155 chemicals, welding gases or other industrial processing gases
156 (except natural gas) used or consumed directly in manufacturing,
157 repairing, cleaning, altering, reconditioning or improving such
158 rail rolling stock (and component parts thereof). This exemption
159 shall not apply to any property used as fuel.

160 (i) Sales of machinery or tools or repair parts
161 therefor or replacements thereof, fuel or supplies used directly
162 in manufacturing, converting or repairing ships, vessels or barges
163 of three thousand (3,000) tons load displacement and over, but not
164 to include office and plant supplies or other equipment not
165 directly used on the ship, vessel or barge being built, converted
166 or repaired. For purposes of this exemption, "ships, vessels or
167 barges" shall not include floating structures described in Section
168 27-65-18.

169 (j) Sales of tangible personal property to persons
170 operating ships in international commerce for use or consumption
171 on board such ships. This exemption shall be limited to cases in
172 which procedures satisfactory to the commissioner, ensuring
173 against use in this state other than on such ships, are
174 established.

175 (k) Sales of materials used in the construction of a
176 building, or any addition or improvement thereon, and sales of any
177 machinery and equipment not later than three (3) months after the
178 completion of construction of the building, or any addition
179 thereon, to be used therein, to qualified businesses, as defined
180 in Section 57-51-5, which are located in a county or portion
181 thereof designated as an enterprise zone pursuant to Sections
182 57-51-1 through 57-51-15.

183 (l) Sales of materials used in the construction of a
184 building, or any addition or improvement thereon, and sales of any
185 machinery and equipment not later than three (3) months after the
186 completion of construction of the building, or any addition
187 thereon, to be used therein, to qualified businesses, as defined
188 in Section 57-54-5.

189 (m) Income from storage and handling of perishable
190 goods by a public storage warehouse.

191 (n) The value of natural gas lawfully injected into the
192 earth for cycling, repressuring or lifting of oil, or lawfully

193 vented or flared in connection with the production of oil;
194 however, if any gas so injected into the earth is sold for such
195 purposes, then the gas so sold shall not be exempt.

196 (o) The gross collections from self-service commercial
197 laundering, drying, cleaning and pressing equipment.

198 (p) Sales of materials used in the construction of a
199 building, or any addition or improvement thereon, and sales of any
200 machinery and equipment not later than three (3) months after the
201 completion of construction of the building, or any addition
202 thereon, to be used therein, to qualified companies, certified as
203 such by the Mississippi Development Authority under Section
204 57-53-1.

205 (q) Sales of component materials used in the
206 construction of a building, or any addition or improvement
207 thereon, sales of machinery and equipment to be used therein, and
208 sales of manufacturing or processing machinery and equipment which
209 is permanently attached to the ground or to a permanent foundation
210 and which is not by its nature intended to be housed within a
211 building structure, not later than three (3) months after the
212 initial start-up date, to permanent business enterprises engaging
213 in manufacturing or processing in Tier Three areas (as such term
214 is defined in Section 57-73-21), which businesses are certified by
215 the State Tax Commission as being eligible for the exemption
216 granted in this paragraph (q).

217 (r) Sales of component materials used in the
218 construction of a building, or any addition or improvement
219 thereon, and sales of any machinery and equipment not later than
220 three (3) months after the completion of the building, addition or
221 improvement thereon, to be used therein, for any company
222 establishing or transferring its national or regional headquarters
223 from within or outside the State of Mississippi and creating a
224 minimum of thirty-five (35) jobs at the new headquarters in this
225 state. The Tax Commission shall establish criteria and prescribe

226 procedures to determine if a company qualifies as a national or
227 regional headquarters for the purpose of receiving the exemption
228 provided in this paragraph.

229 (s) The gross proceeds from the sale of semitrailers,
230 trailers, boats, travel trailers, motorcycles and all-terrain
231 cycles if exported from this state within forty-eight (48) hours
232 and registered and first used in another state.

233 (t) Gross income from the storage and handling of
234 natural gas in underground salt domes and in other underground
235 reservoirs, caverns, structures and formations suitable for such
236 storage.

237 (u) Sales of machinery and equipment to nonprofit
238 organizations if the organization:

239 (i) Is tax-exempt pursuant to Section 501(c)(4) of
240 the Internal Revenue Code of 1986, as amended;

241 (ii) Assists in the implementation of the national
242 contingency plan or area contingency plan, and which is created in
243 response to the requirements of Title IV, Subtitle B of the Oil
244 Pollution Act of 1990, Public Law 101-380; and

245 (iii) Engages primarily in programs to contain,
246 clean up and otherwise mitigate spills of oil or other substances
247 occurring in the United States coastal and tidal waters.

248 For purposes of this exemption, "machinery and equipment"
249 means any ocean-going vessels, barges, booms, skimmers and other
250 capital equipment used primarily in the operations of nonprofit
251 organizations referred to herein.

252 (v) Sales or leases of materials and equipment to
253 approved business enterprises as provided under the Growth and
254 Prosperity Act.

255 (w) From and after July 1, 2001, sales of pollution
256 control equipment to manufacturers or custom processors for
257 industrial use. For the purposes of this exemption, "pollution
258 control equipment" means equipment, devices, machinery or systems

259 used or acquired to prevent, control, monitor or reduce air, water
260 or groundwater pollution, or solid or hazardous waste as required
261 by federal or state law or regulation.

262 (x) Sales or leases to a manufacturer of motor vehicles
263 operating a project that has been certified by the Mississippi
264 Major Economic Impact Authority as a project as defined in Section
265 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
266 as dies, molds, jigs and similar items treated as special tooling
267 for federal income tax purposes; or repair parts therefor or
268 replacements thereof; repair services thereon; fuel, supplies,
269 electricity, coal and natural gas used directly in the manufacture
270 of motor vehicles or motor vehicle parts or used to provide
271 climate control for manufacturing areas.

272 (y) Sales or leases of component materials, machinery
273 and equipment used in the construction of a building, or any
274 addition or improvement thereon to an enterprise operating a
275 project that has been certified by the Mississippi Major Economic
276 Impact Authority as a project as defined in Section
277 57-75-5(f)(iv)1 and any other sales or leases required to
278 establish or operate such project.

279 (z) Sales of component materials and equipment to a
280 business enterprise as provided under Section 57-64-33.

281 (aa) The gross income from the stripping and painting
282 of commercial aircraft engaged in foreign or interstate
283 transportation business.

284 (bb) Sales of production items used in the production
285 of motion pictures such as film; videotape; component building
286 materials used in the construction of a set; makeup; fabric used
287 as or in the making of costumes; clothing, including, shoes,
288 accessories and jewelry used as wardrobes; materials used as set
289 dressing; materials used as props on a set or by an actor;
290 materials used in the creation of special effects; and expendable
291 items purchased for limited use by grip, electric and camera

292 departments such as tape, fasteners and compressed air. For the
293 purposes of this paragraph (bb), the term "motion picture" means a
294 nationally distributed feature-length film, video, television
295 series or commercial made in Mississippi, in whole or in part, for
296 theatrical or television viewing or as a television pilot. The
297 term "motion picture" shall not include the production of
298 television coverage of news and athletic events, or a film, video,
299 television series or commercial that contains any material or
300 performance defined in Section 97-29-103.

301 (cc) Sales or leases to an enterprise owning or
302 operating a project that has been designated by the Mississippi
303 Major Economic Impact Authority as a project as defined in Section
304 57-75-5(f)(xviii) of machinery and equipment; special tooling such
305 as dies, molds, jigs and similar items treated as special tooling
306 for federal income tax purposes; or repair parts therefor or
307 replacements thereof; repair services thereon; fuel, supplies,
308 electricity, coal and natural gas used directly in the
309 manufacturing/production operations of the project or used to
310 provide climate control for manufacturing/production areas.

311 (dd) Sales or leases of component materials, machinery
312 and equipment used in the construction of a building, or any
313 addition or improvement thereon to an enterprise owning or
314 operating a project that has been designated by the Mississippi
315 Major Economic Impact Authority as a project as defined in Section
316 57-75-5(f)(xviii) and any other sales or leases required to
317 establish or operate such project.

318 (ee) Sales of parts used in the repair and servicing of
319 aircraft * * *.

320 (ff) Sales of component materials used in the
321 construction of a facility, or any addition or improvement
322 thereon, and sales or leases of machinery and equipment not later
323 than three (3) months after the completion of construction of the
324 facility, or any addition or improvement thereto, to be used in

325 the building or any addition or improvement thereto, to a
326 permanent business enterprise operating a data/information
327 enterprise in Tier Three areas (as such areas are designated in
328 accordance with Section 57-73-21), meeting minimum criteria
329 established by the Mississippi Development Authority.

330 (gg) Sales of component materials used in the
331 construction of a facility, or any addition or improvement
332 thereto, and sales of machinery and equipment not later than three
333 (3) months after the completion of construction of the facility,
334 or any addition or improvement thereto, to be used in the facility
335 or any addition or improvement thereto, to technology intensive
336 enterprises for industrial purposes in Tier Three areas (as such
337 areas are designated in accordance with Section 57-73-21), as
338 certified by the State Tax Commission. For purposes of this
339 paragraph, an enterprise must meet the criteria provided for in
340 Section 27-65-17(1)(f) in order to be considered a technology
341 intensive enterprise.

342 (2) Sales of component materials used in the construction of
343 a building, or any addition or improvement thereon, sales of
344 machinery and equipment to be used therein, and sales of
345 manufacturing or processing machinery and equipment which is
346 permanently attached to the ground or to a permanent foundation
347 and which is not by its nature intended to be housed within a
348 building structure, not later than three (3) months after the
349 initial start-up date, to permanent business enterprises engaging
350 in manufacturing or processing in Tier Two areas and Tier One
351 areas (as such areas are designated in accordance with Section
352 57-73-21), which businesses are certified by the State Tax
353 Commission as being eligible for the exemption granted in this
354 paragraph, shall be exempt from one-half (1/2) of the taxes
355 imposed on such transactions under this chapter.

356 (3) Sales of component materials used in the construction of
357 a facility, or any addition or improvement thereon, and sales or

358 leases of machinery and equipment not later than three (3) months
359 after the completion of construction of the facility, or any
360 addition or improvement thereto, to be used in the building or any
361 addition or improvement thereto, to a permanent business
362 enterprise operating a data/information enterprise in Tier Two
363 areas and Tier One areas (as such areas are designated in
364 accordance with Section 57-73-21), which businesses meet minimum
365 criteria established by the Mississippi Development Authority,
366 shall be exempt from one-half (1/2) of the taxes imposed on such
367 transaction under this chapter.

368 (4) Sales of component materials used in the construction of
369 a facility, or any addition or improvement thereto, and sales of
370 machinery and equipment not later than three (3) months after the
371 completion of construction of the facility, or any addition or
372 improvement thereto, to be used in the building or any addition or
373 improvement thereto, to technology intensive enterprises for
374 industrial purposes in Tier Two areas and Tier One areas (as such
375 areas are designated in accordance with Section 57-73-21), which
376 businesses are certified by the State Tax Commission as being
377 eligible for the exemption granted in this paragraph, shall be
378 exempt from one-half (1/2) of the taxes imposed on such
379 transactions under this chapter. For purposes of this subsection,
380 an enterprise must meet the criteria provided for in Section
381 27-65-17(1)(f) in order to be considered a technology intensive
382 enterprise.

383 (5) (a) For purposes of this subsection:

384 (i) "Telecommunications enterprises" shall have
385 the meaning ascribed to such term in Section 57-73-21;

386 (ii) "Tier One areas" mean counties designated as
387 Tier One areas pursuant to Section 57-73-21;

388 (iii) "Tier Two areas" mean counties designated as
389 Tier Two areas pursuant to Section 57-73-21;

390 (iv) "Tier Three areas" mean counties designated
391 as Tier Three areas pursuant to Section 57-73-21; and

392 (v) "Equipment used in the deployment of broadband
393 technologies" means any equipment capable of being used for or in
394 connection with the transmission of information at a rate, prior
395 to taking into account the effects of any signal degradation, that
396 is not less than three hundred eighty-four (384) kilobits per
397 second in at least one direction, including, but not limited to,
398 asynchronous transfer mode switches, digital subscriber line
399 access multiplexers, routers, servers, multiplexers, fiber optics
400 and related equipment.

401 (b) Sales of equipment to telecommunications
402 enterprises after June 30, 2003, and before July 1, 2013, that is
403 installed in Tier One areas and used in the deployment of
404 broadband technologies shall be exempt from one-half (1/2) of the
405 taxes imposed on such transactions under this chapter.

406 (c) Sales of equipment to telecommunications
407 enterprises after June 30, 2003, and before July 1, 2013, that is
408 installed in Tier Two and Tier Three areas and used in the
409 deployment of broadband technologies shall be exempt from the
410 taxes imposed on such transactions under this chapter.

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