

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2456

1 AN ACT TO AMEND SECTION 27-65-9, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE DEFINITION OF "DOING BUSINESS" FOR PURPOSES OF  
3 REMITTING SALES TAX ON GOODS AND SERVICES DELIVERED TO LOCATIONS  
4 WITHIN THE STATE OF MISSISSIPPI; TO PROHIBIT A STATE AGENCY FROM  
5 CONTRACTING FOR GOODS AND SERVICES WITH A COMPANY THAT FAILS TO  
6 REMIT SALES OR USE TAX OR FILE A SALES OR USE TAX RETURN; AND FOR  
7 RELATED PURPOSES.

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

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

11 27-65-9. (1) "Business" means:

12 (a) All activities or acts engaged in (personal or  
13 corporate), for benefit or advantage, either direct or indirect,  
14 and not exempting subactivities in connection therewith. Each of  
15 such subactivities shall be considered business engaged in,  
16 taxable in the class in which it falls.

17 (b) Activities engaged in by exempt organizations or  
18 political entities in competition with privately owned business  
19 subject to the provisions of this chapter.

20 (c) Activities of a person in this state performing a  
21 service under contract or agreement with another person when the  
22 service performed is taxable under the provisions of this chapter.

23 (2) "Doing business" means:

24 (a) Activities of any person owning personal property  
25 located in this state under lease or rental agreement or of any  
26 person installing personal property within this state.

27 (b) Activities of any person represented in this state  
28 by salesmen taking or soliciting orders to be filled from points  
29 outside this state for subsequent delivery of the merchandise in

30 equipment owned or leased by the seller to customers located in  
31 this state.

32 (c) Activities of a company, including its subsidiaries  
33 and related companies, performing a service or providing goods to  
34 a state agency.

35 (3) "State agency" means the State of Mississippi, its  
36 departments, institutions, counties, municipalities, school  
37 districts or any other local political subdivision.

38 **SECTION 2.** No state agency shall contract for goods and  
39 services with a company if it, including its subsidiaries and  
40 related companies, is subject to collecting and remitting sales or  
41 use tax on sales or services delivered by any means to locations  
42 within the state. Any company that contracts with a state agency  
43 for goods and services, and that fails to remit the proper tax or  
44 file the proper tax return under Sections 27-65-17, 27-65-19,  
45 27-65-21, 27-65-23 and 27-67-4, shall be considered to be in  
46 breach of the relevant contract with the state agency. For  
47 purposes of this section, "state agency" shall have the meaning  
48 ascribed to it in Section 27-65-9.

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