

By: Representative Formby

To: Ways and Means

## HOUSE BILL NO. 248

1 AN ACT TO AMEND SECTION 27-65-33, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT WHEN CALCULATING THE ESTIMATED SALES TAX LIABILITY  
3 FOR THE MONTH OF JUNE OF THE CURRENT CALENDAR YEAR FOR A TAXPAYER  
4 REQUIRED TO PAY ON OR BEFORE THE TWENTY-FIFTH DAY OF JUNE, AN  
5 AMOUNT EQUAL TO AT LEAST SEVENTY-FIVE PERCENT OF THE TAXPAYER'S  
6 ESTIMATED SALES TAX LIABILITY FOR THE MONTH OF JUNE OF THE CURRENT  
7 CALENDAR YEAR OR SEVENTY-FIVE PERCENT OF THE TAXPAYER'S SALES TAX  
8 LIABILITY FOR THE MONTH OF JUNE OF THE PRECEDING CALENDAR YEAR, A  
9 TAXPAYER DOES NOT HAVE TO INCLUDE TAXES DUE ON CREDIT SALES FOR  
10 WHICH THE TAXPAYER HAS NOT RECEIVED PAYMENT BEFORE THE TWENTIETH  
11 DAY OF JUNE; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 27-65-33, Mississippi Code of 1972, is  
14 amended as follows:

15 27-65-33. (1) Except as otherwise provided in this section,  
16 the taxes levied by this chapter shall be due and payable on or  
17 before the twentieth day of the month next succeeding the month in  
18 which the tax accrues, except as otherwise provided. Returns and  
19 payments placed in the mail must be postmarked by the due date in  
20 order to be considered timely filed, except when the due date  
21 falls on a weekend or holiday, returns and payments placed in the  
22 mail must be postmarked by the first working day following the due  
23 date in order to be considered timely filed. The taxpayer shall  
24 make a return showing the gross proceeds of sales or the gross  
25 income of the business, and any and all allowable deductions, or  
26 exempt sales, and compute the tax due for the period covered.

27 As compensation for collecting sales and use taxes, complying  
28 fully with the applicable statutes, filing returns and supplements  
29 thereto and paying all taxes by the twentieth of the month  
30 following the period covered, the taxpayer may discount and retain

31 two percent (2%) of the liability on each return subject to the  
32 following limitations:

33 (a) The compensation or discount shall not apply to  
34 taxes levied under the provisions of Sections 27-65-19 and  
35 27-65-21, or on charges for ginning cotton under Section 27-65-23.

36 (b) The compensation or discount shall not apply to  
37 taxes collected by a county official or state agency.

38 (c) The compensation or discount shall not exceed Fifty  
39 Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00) per  
40 calendar year, per business location on each state sales tax  
41 return, or on each use tax return.

42 (d) The compensation or discount shall not apply to any  
43 wholesale tax, the rate of which is equal to or greater than the  
44 tax rate applicable to retail sales of the same property or  
45 service. The retailer of such items shall be entitled to the  
46 compensation based on the tax computed on retail sales before  
47 application of the credit for any tax paid to the wholesaler,  
48 jobber or other person.

49 (e) The compensation or discount allowed and taken for  
50 any filing period may be reassessed and collected when an audit of  
51 a taxpayer's records reveals a tax deficiency for that period.

52 (2) A taxpayer required to collect sales taxes under this  
53 chapter and having an average monthly sales tax liability of at  
54 least Twenty Thousand Dollars (\$20,000.00) for the preceding  
55 calendar year shall pay to the State Tax Commission on or before  
56 June 25, 2003, and on or before the twenty-fifth day of June of  
57 each succeeding year thereafter, an amount equal to at least  
58 seventy-five percent (75%) of such taxpayer's estimated sales tax  
59 liability for the month of June of the current calendar year, or  
60 an amount equal to at least seventy-five percent (75%) of the  
61 taxpayer's sales tax liability for the month of June of the  
62 preceding calendar year. For the purposes of calculating a  
63 taxpayer's estimated sales tax liability for the month of June of

64 the current calendar year, the taxpayer does not have to include  
65 taxes due on credit sales for which the taxpayer has not received  
66 payment before June 20. Payments required to be made under this  
67 subsection must be received by the State Tax Commission no later  
68 than June 25 in order to be considered timely made. A taxpayer  
69 that fails to comply with the requirements of this subsection may  
70 be assessed a penalty in an amount equal to ten percent (10%) of  
71 the difference between any amount the taxpayer pays pursuant to  
72 this subsection and the taxpayer's actual sales tax liability for  
73 the month of June for which the estimated payment was required to  
74 be made. Payments made by a taxpayer under this subsection shall  
75 not be considered to be collected for the purposes of any sales  
76 tax diversions required by law until the taxpayer files a return  
77 for the actual sales taxes collected during the month of June.  
78 This subsection shall not apply to any agency, department or  
79 instrumentality of the United States, any agency, department,  
80 institution, instrumentality or political subdivision of the State  
81 of Mississippi, or any agency, department, institution or  
82 instrumentality of any political subdivision of the State of  
83 Mississippi. Payments made pursuant to this subsection for the  
84 month of June 2003, shall be deposited by the State Tax Commission  
85 into the Budget Contingency Fund created under Section 27-103-301,  
86 and payments made pursuant to this subsection for the month of  
87 June of 2004, and each succeeding year thereafter, shall be  
88 deposited by the State Tax Commission into the State General Fund.

89 (3) All returns shall be sworn to by the taxpayer, if made  
90 by an individual, or by the president, vice president, secretary  
91 or treasurer of a corporation, or authorized agent, if made on  
92 behalf of a corporation. If made on behalf of a partnership,  
93 joint venture, association, trust, estate, or in any other group  
94 or combination acting as a unit, any individual delegated by such  
95 firm shall swear to the return on behalf of the taxpayer. The

96 commissioner may prescribe methods by which the taxpayer may swear  
97 to his return.

98 (4) The commissioner may promulgate rules and regulations to  
99 require or permit filing periods of any duration, in lieu of  
100 monthly filing periods, for any taxpayer or group thereof.

101 (5) The commissioner may require the execution and filing by  
102 the taxpayer with the commissioner of a good and solvent bond with  
103 some surety company authorized to do business in Mississippi as  
104 surety thereon in an amount double the aggregate tax liability by  
105 such taxpayer for any previous three-month period within the last  
106 calendar year or estimated three (3) months' tax liability. Said  
107 bond is to be conditioned for the prompt payment of such taxes as  
108 may be due for each such return.

109 (6) The commissioner, for good cause, may grant such  
110 reasonable additional time within which to make any return  
111 required under the provisions of this chapter as he may deem  
112 proper, but the time for filing any return shall not be extended  
113 beyond the twentieth of the month next succeeding the regular due  
114 date of the return without the imposition of interest at the rate  
115 of one percent (1%) per month or fractional part of a month from  
116 the time the return was due until the tax is paid.

117 (7) For persistent, willful or recurring failure to make any  
118 return and pay the tax shown thereby to be due by the time  
119 specified, there shall be added to the amount of tax shown to be  
120 due ten percent (10%) damages, or interest at the rate of one  
121 percent (1%) per month, or both.

122 (8) Any taxpayer may, upon making application therefor,  
123 obtain from the commissioner an extension of time for the payment  
124 of taxes due on credit sales until collections thereon have been  
125 made. When such extension is granted, the taxpayer shall  
126 thereafter include in each monthly or quarterly report all  
127 collections made during the preceding month or quarter, and shall  
128 pay the taxes due thereon at the time of filing such report. Such

129 permission may be revoked or denied at the discretion of the  
130 commissioner when, in his opinion, a total sales basis will best  
131 reflect the taxable income or expedite examination of the  
132 taxpayer's records.

133 (9) Any taxpayer reporting credit sales before collection  
134 thereof has been made may take credit on subsequent returns or  
135 reports for bad debts actually charged off, if such amounts  
136 charged off have previously been included in taxable gross income  
137 or taxable gross proceeds of sales, as the case may be, and the  
138 tax paid thereon. However, any amounts subsequently collected on  
139 accounts that have been charged off as bad debts shall be included  
140 in subsequent reports and the tax shall be paid thereon.

141 (10) In cases where an extension of time has been granted by  
142 the commissioner for payment of taxes due on credit sales and the  
143 taxpayer thereafter discontinues the business, such taxpayer shall  
144 be required to file with the commissioner within ten (10) days, or  
145 such further time as the commissioner may direct, from the date of  
146 the discontinuance of such business, a special report showing the  
147 amounts of any credit sales which have not been included in  
148 determining the measure of the tax previously paid and any other  
149 information with reference to credit sales as the commissioner may  
150 require. The commissioner shall thereupon investigate the facts  
151 with reference to credit sales and the condition of the accounts,  
152 and shall determine, from the best evidence available, the value  
153 of all open accounts, notes or other evidence of debt arising from  
154 credit sales. The value of all notes, open accounts and other  
155 evidence of debt, as thus determined by the commissioner, shall be  
156 used in determining the amount of the tax for which such taxpayer  
157 shall be liable. When the amount of the tax shall have been  
158 ascertained, the taxpayer shall be required to pay the same within  
159 ten (10) days or such further time as the commissioner may allow,  
160 notwithstanding the fact that such note or accounts may still  
161 remain uncollected.

162           **SECTION 2.** This act shall take effect and be in force from  
163 and after its passage.