

By: Representative Warren

To: Ways and Means

HOUSE BILL NO. 1285

1 AN ACT TO AMEND SECTION 27-65-33, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE A COMPENSATION TO TAXPAYERS FOR COLLECTING TAXES
3 IMPOSED UNDER LOCAL AND PRIVATE LAWS OF THIS STATE AND FILING
4 NECESSARY RETURNS WITH THE DEPARTMENT OF REVENUE; TO PROVIDE FOR
5 THE AMOUNT OF SUCH COMPENSATION; AND FOR RELATED PURPOSES.

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

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

9 **[Until July 1, 2013, this section shall read as follows:]**

10 27-65-33. (1) (a) Except as otherwise provided in this
11 section, the taxes levied by this chapter shall be due and payable
12 on or before the twentieth day of the month next succeeding the
13 month in which the tax accrues, except as otherwise provided.

14 Returns and payments placed in the mail must be postmarked by the
15 due date in order to be considered timely filed, except when the
16 due date falls on a weekend or holiday, returns and payments
17 placed in the mail must be postmarked by the first working day
18 following the due date in order to be considered timely filed.

19 The taxpayer shall make a return showing the gross proceeds of



20 sales or the gross income of the business, and any and all
21 allowable deductions, or exempt sales, and compute the tax due for
22 the period covered.

23 **(b)** As compensation for collecting sales and use taxes,
24 complying fully with the applicable statutes, filing returns and
25 supplements thereto and paying all taxes by the twentieth of the
26 month following the period covered, the taxpayer may discount and
27 retain two percent (2%) of the liability on each return subject to
28 the following limitations:

29 (* * * i) The compensation or discount shall not
30 apply to taxes levied under the provisions of Sections 27-65-19
31 and 27-65-21, or on charges for ginning cotton under Section
32 27-65-23.

33 (* * * ii) The compensation or discount shall not
34 apply to taxes collected by a county official or state agency.

35 (* * * iii) The compensation or discount shall not
36 exceed Fifty Dollars (\$50.00) per month, or Six Hundred Dollars
37 (\$600.00) per calendar year, per business location on each state
38 sales tax return, or on each use tax return.

39 (* * * iv) The compensation or discount shall not
40 apply to any wholesale tax, the rate of which is equal to or
41 greater than the tax rate applicable to retail sales of the same
42 property or service. The retailer of such items shall be entitled
43 to the compensation based on the tax computed on retail sales



44 before application of the credit for any tax paid to the
45 wholesaler, jobber, or other person.

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

50 (c) As compensation for collecting any tax imposed
51 under the authority of a local and private law of the State of
52 Mississippi which is collected and paid to the Department of
53 Revenue in the same or similar manner that state sales taxes are
54 collected and paid, complying fully with such applicable law,
55 filing returns and supplements thereto and paying all taxes by the
56 twentieth of the month following the period covered, the taxpayer
57 may discount and retain two percent (2%) of the liability on each
58 return subject to the following limitations:

59 (i) The compensation or discount shall not apply
60 to taxes collected by a county official or state agency.

61 (ii) The compensation or discount shall not exceed
62 Fifty Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00)
63 per calendar year, per business location on each return.

64 (iii) The compensation or discount allowed and
65 taken for any filing period may be reassessed and collected when
66 an audit of a taxpayer's records reveals a tax deficiency for that
67 period.



68 (2) A taxpayer required to collect sales taxes under this
69 chapter and having an average monthly sales tax liability of at
70 least Twenty Thousand Dollars (\$20,000.00) for the preceding
71 calendar year shall pay to the Department of Revenue on or before
72 June 25, 2003, and on or before the twenty-fifth day of June of
73 each succeeding year thereafter, an amount equal to at least
74 seventy-five percent (75%) of such taxpayer's estimated sales tax
75 liability for the month of June of the current calendar year, or
76 an amount equal to at least seventy-five percent (75%) of the
77 taxpayer's sales tax liability for the month of June of the
78 preceding calendar year. Payments required to be made under this
79 subsection must be received by the Department of Revenue no later
80 than June 25 in order to be considered timely made. A taxpayer
81 that fails to comply with the requirements of this subsection may
82 be assessed a penalty in an amount equal to ten percent (10%) of
83 the difference between any amount the taxpayer pays pursuant to
84 this subsection and the taxpayer's actual sales tax liability for
85 the month of June for which the estimated payment was required to
86 be made. Payments made by a taxpayer under this subsection shall
87 not be considered to be collected for the purposes of any sales
88 tax diversions required by law until the taxpayer files a return
89 for the actual sales taxes collected during the month of June.
90 This subsection shall not apply to any agency, department or
91 instrumentality of the United States, any agency, department,
92 institution, instrumentality or political subdivision of the State



93 of Mississippi, or any agency, department, institution or
94 instrumentality of any political subdivision of the State of
95 Mississippi. Payments made pursuant to this subsection for the
96 month of June 2003, shall be deposited by the Department of
97 Revenue into the Budget Contingency Fund created under Section
98 27-103-301, and payments made pursuant to this subsection for the
99 month of June 2004, and each succeeding year thereafter, shall be
100 deposited by the Department of Revenue into the State General
101 Fund.

102 (3) All returns shall be sworn to by the taxpayer, if made
103 by an individual, or by the president, vice president, secretary
104 or treasurer of a corporation, or authorized agent, if made on
105 behalf of a corporation. If made on behalf of a partnership,
106 joint venture, association, trust, estate, or in any other group
107 or combination acting as a unit, any individual delegated by such
108 firm shall swear to the return on behalf of the taxpayer. The
109 commissioner may prescribe methods by which the taxpayer may swear
110 to his return.

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

114 (5) The commissioner may require the execution and filing by
115 the taxpayer with the commissioner of a good and solvent bond with
116 some surety company authorized to do business in Mississippi as
117 surety thereon in an amount double the aggregate tax liability by



118 such taxpayer for any previous three (3) months' period within the
119 last calendar year or estimated three (3) months' tax liability.
120 The bond is to be conditioned for the prompt payment of such taxes
121 as may be due for each such return.

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

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

135 (8) Any taxpayer may, upon making application therefor,
136 obtain from the commissioner an extension of time for the payment
137 of taxes due on credit sales until collections thereon have been
138 made. When such extension is granted, the taxpayer shall
139 thereafter include in each monthly or quarterly report all
140 collections made during the preceding month or quarter, and shall
141 pay the taxes due thereon at the time of filing such report. Such
142 permission may be revoked or denied at the discretion of the



143 commissioner when, in his opinion, a total sales basis will best
144 reflect the taxable income or expedite examination of the
145 taxpayer's records.

146 (9) Any taxpayer reporting credit sales before collection
147 thereof has been made may take credit on subsequent returns or
148 reports for bad debts actually charged off, if such amounts
149 charged off have previously been included in taxable gross income
150 or taxable gross proceeds of sales, as the case may be, and the
151 tax paid thereon. However, any amounts subsequently collected on
152 accounts that have been charged off as bad debts shall be included
153 in subsequent reports and the tax shall be paid thereon.

154 (10) In cases where an extension of time has been granted by
155 the commissioner for payment of taxes due on credit sales and the
156 taxpayer thereafter discontinues the business, such taxpayer shall
157 be required to file with the commissioner within ten (10) days, or
158 such further time as the commissioner may direct, from the date of
159 the discontinuance of such business, a special report showing the
160 amounts of any credit sales which have not been included in
161 determining the measure of the tax previously paid and any other
162 information with reference to credit sales as the commissioner may
163 require. The commissioner shall thereupon investigate the facts
164 with reference to credit sales and the condition of the accounts,
165 and shall determine, from the best evidence available, the value
166 of all open accounts, notes, or other evidence of debt arising
167 from credit sales. The value of all notes, open accounts and



168 other evidence of debt, as thus determined by the commissioner,
169 shall be used in determining the amount of the tax for which such
170 taxpayer shall be liable. When the amount of the tax shall have
171 been ascertained, the taxpayer shall be required to pay the same
172 within ten (10) days or such further time as the commissioner may
173 allow, notwithstanding the fact that such note or accounts may
174 still remain uncollected.

175 **[From and after July 1, 2013, this section shall read as**
176 **follows:]**

177 27-65-33. (1) (a) Except as otherwise provided in this
178 section, the taxes levied by this chapter shall be due and payable
179 on or before the twentieth day of the month next succeeding the
180 month in which the tax accrues, except as otherwise provided.
181 Returns and payments placed in the mail must be postmarked by the
182 due date in order to be considered timely filed, except when the
183 due date falls on a weekend or holiday, returns and payments
184 placed in the mail must be postmarked by the first working day
185 following the due date in order to be considered timely filed.
186 The taxpayer shall make a return showing the gross proceeds of
187 sales or the gross income of the business, and any and all
188 allowable deductions, or exempt sales, and compute the tax due for
189 the period covered.

190 (b) As compensation for collecting sales and use taxes,
191 complying fully with the applicable statutes, filing returns and
192 supplements thereto and paying all taxes by the twentieth of the



193 month following the period covered, the taxpayer may discount and
194 retain two percent (2%) of the liability on each return subject to
195 the following limitations:

196 (* * *i) The compensation or discount shall not
197 apply to taxes levied under the provisions of Sections 27-65-19
198 and 27-65-21, or on charges for ginning cotton under Section
199 27-65-23.

200 (* * *ii) The compensation or discount shall not
201 apply to taxes collected by a county official or state agency.

202 (* * *iii) The compensation or discount shall not
203 exceed Fifty Dollars (\$50.00) per month, or Six Hundred Dollars
204 (\$600.00) per calendar year, per business location on each state
205 sales tax return, or on each use tax return.

206 (* * *iv) The compensation or discount shall not
207 apply to any wholesale tax, the rate of which is equal to or
208 greater than the tax rate applicable to retail sales of the same
209 property or service. The retailer of such items shall be entitled
210 to the compensation based on the tax computed on retail sales
211 before application of the credit for any tax paid to the
212 wholesaler, jobber or other person.

213 (* * *y) The compensation or discount allowed and
214 taken for any filing period may be reassessed and collected when
215 an audit of a taxpayer's records reveals a tax deficiency for that
216 period.



217 (c) As compensation for collecting any tax imposed
218 under the authority of a local and private law of the State of
219 Mississippi which is collected and paid to the Department of
220 Revenue in the same or similar manner that state sales taxes are
221 collected and paid, complying fully with such applicable law,
222 filing returns and supplements thereto and paying all taxes by the
223 twentieth of the month following the period covered, the taxpayer
224 may discount and retain two percent (2%) of the liability on each
225 return subject to the following limitations:

226 (i) The compensation or discount shall not apply
227 to taxes collected by a county official or state agency.

228 (ii) The compensation or discount shall not exceed
229 Fifty Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00)
230 per calendar year, per business location on each tax return.

231 (iii) The compensation or discount allowed and
232 taken for any filing period may be reassessed and collected when
233 an audit of a taxpayer's records reveals a tax deficiency for that
234 period.

235 (2) A taxpayer required to collect sales taxes under this
236 chapter and having an average monthly sales tax liability of at
237 least Fifty Thousand Dollars (\$50,000.00) for the preceding
238 calendar year shall pay to the Department of Revenue on or before
239 June 25, 2014, and on or before the twenty-fifth day of June of
240 each succeeding year thereafter, an amount equal to at least
241 seventy-five percent (75%) of such taxpayer's estimated sales tax



242 liability for the month of June of the current calendar year, or
243 an amount equal to at least seventy-five percent (75%) of the
244 taxpayer's sales tax liability for the month of June of the
245 preceding calendar year. For the purposes of calculating a
246 taxpayer's estimated sales tax liability for the month of June of
247 the current calendar year, the taxpayer does not have to include
248 taxes due on credit sales for which the taxpayer has not received
249 payment before June 20. Payments required to be made under this
250 subsection must be received by the Department of Revenue no later
251 than June 25 in order to be considered timely made. A taxpayer
252 that fails to comply with the requirements of this subsection may
253 be assessed a penalty in an amount equal to ten percent (10%) of
254 the difference between any amount the taxpayer pays pursuant to
255 this subsection and the taxpayer's actual sales tax liability for
256 the month of June for which the estimated payment was required to
257 be made. Payments made by a taxpayer under this subsection shall
258 not be considered to be collected for the purposes of any sales
259 tax diversions required by law until the taxpayer files a return
260 for the actual sales taxes collected during the month of June.
261 This subsection shall not apply to any agency, department or
262 instrumentality of the United States, any agency, department,
263 institution, instrumentality or political subdivision of the State
264 of Mississippi, or any agency, department, institution or
265 instrumentality of any political subdivision of the State of
266 Mississippi.



267 (3) All returns shall be sworn to by the taxpayer, if made
268 by an individual, or by the president, vice president, secretary
269 or treasurer of a corporation, or authorized agent, if made on
270 behalf of a corporation. If made on behalf of a partnership,
271 joint venture, association, trust, estate, or in any other group
272 or combination acting as a unit, any individual delegated by such
273 firm shall swear to the return on behalf of the taxpayer. The
274 commissioner may prescribe methods by which the taxpayer may swear
275 to his return.

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277 require or permit filing periods of any duration, in lieu of
278 monthly filing periods, for any taxpayer or group thereof.

279 (5) The commissioner may require the execution and filing by
280 the taxpayer with the commissioner of a good and solvent bond with
281 some surety company authorized to do business in Mississippi as
282 surety thereon in an amount double the aggregate tax liability by
283 such taxpayer for any previous three-month period within the last
284 calendar year or estimated three (3) months' tax liability. The
285 bond is to be conditioned for the prompt payment of such taxes as
286 may be due for each such return.

287 (6) The commissioner, for good cause, may grant such
288 reasonable additional time within which to make any return
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303 made. When such extension is granted, the taxpayer shall
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305 collections made during the preceding month or quarter, and shall
306 pay the taxes due thereon at the time of filing such report. Such
307 permission may be revoked or denied at the discretion of the
308 commissioner when, in his opinion, a total sales basis will best
309 reflect the taxable income or expedite examination of the
310 taxpayer's records.

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312 thereof has been made may take credit on subsequent returns or
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315 or taxable gross proceeds of sales, as the case may be, and the
316 tax paid thereon. However, any amounts subsequently collected on



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320 the commissioner for payment of taxes due on credit sales and the
321 taxpayer thereafter discontinues the business, such taxpayer shall
322 be required to file with the commissioner within ten (10) days, or
323 such further time as the commissioner may direct, from the date of
324 the discontinuance of such business, a special report showing the
325 amounts of any credit sales which have not been included in
326 determining the measure of the tax previously paid and any other
327 information with reference to credit sales as the commissioner may
328 require. The commissioner shall thereupon investigate the facts
329 with reference to credit sales and the condition of the accounts,
330 and shall determine, from the best evidence available, the value
331 of all open accounts, notes or other evidence of debt arising from
332 credit sales. The value of all notes, open accounts and other
333 evidence of debt, as thus determined by the commissioner, shall be
334 used in determining the amount of the tax for which such taxpayer
335 shall be liable. When the amount of the tax shall have been
336 ascertained, the taxpayer shall be required to pay the same within
337 ten (10) days or such further time as the commissioner may allow,
338 notwithstanding the fact that such note or accounts may still
339 remain uncollected.

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

