

By: Representative Wilson

To: Ways and Means

HOUSE BILL NO. 427

1 AN ACT TO AUTHORIZE THE DEPARTMENT OF REVENUE TO CONSIDER AND  
2 ENTER INTO AGREEMENTS WITH TAXPAYERS FOR THE SETTLEMENT OR  
3 COMPROMISE OF TAX LIABILITIES; TO BRING FORWARD SECTIONS 31-19-27  
4 AND 31-19-29, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE  
5 COMPROMISE OF DOUBTFUL CLAIMS, FOR PURPOSES OF AMENDMENT; AND FOR  
6 RELATED PURPOSES.

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

8 **SECTION 1.** (1) (a) The Department of Revenue is authorized  
9 to enter into an agreement with a taxpayer under which the  
10 taxpayer's tax liabilities, or any part thereof, including any  
11 applicable or assessed interest and penalty, are settled and  
12 compromised, and in connection therewith to receive and consider  
13 offers in compromise and settlement proposals, and to enter into  
14 binding settlement agreements and closing agreements under which a  
15 taxpayer's liabilities for taxes, interest and penalties are fully  
16 and finally compromised and settled. Such authority shall include  
17 compromise and settlements of proposed tax assessments, final tax  
18 assessments, and tax liabilities reflected by filed returns,  
19 judgments for taxes, and other proposed or final tax assessments  
20 and liabilities, and applicable interest and penalties.



21 (b) The Department of Revenue shall develop procedures  
22 for the receipt and consideration of offers in compromise and  
23 settlement proposals. In considering and taking action upon such  
24 offers and proposals, the Department of Revenue shall take into  
25 account:

26 (i) Controversy or doubt as to the taxpayer's  
27 liability for the tax that is the subject of the offer in  
28 compromise or settlement proposal;

29 (ii) Controversy or doubt as to the collectability  
30 of the tax that is the subject of the offer in compromise or  
31 settlement proposal;

32 (iii) That payment of the tax liability, or the  
33 interest or penalty thereon, will render the taxpayer insolvent or  
34 incapable of continuing as a going business concern;

35 (iv) That the taxpayer has had an offer in  
36 compromise accepted by the Internal Revenue Service or has  
37 otherwise compromised or settled the federal tax liability  
38 relating to the same or a similar type of federal tax for the  
39 periods in question; and

40 (v) Hazards and costs of administrative  
41 proceedings and litigation.

42 With respect to the compromise of interest or penalties, the  
43 Department of Revenue shall take into account, in addition to the  
44 factors listed in this paragraph (b), whether the failure to pay



45 the applicable tax resulted from a mistake of fact or law made in  
46 good faith.

47 (2) A closing agreement or settlement agreement signed by  
48 the Commissioner of Revenue, or his designee, and a taxpayer shall  
49 be final and conclusive, and, except upon a showing of fraud or  
50 misrepresentation of a material fact, no additional assessment or  
51 collection may be made by the Department of Revenue and the  
52 taxpayer shall not institute any judicial proceeding to recover  
53 the taxpayer's liabilities as agreed to in the closing agreement  
54 or settlement agreement.

55 (3) The Department of Revenue shall have all powers  
56 necessary to implement and administer this section, and the  
57 department shall promulgate rules and regulations, in accordance  
58 with the Mississippi Administrative Procedures Law, necessary for  
59 the implementation of this section.

60 **SECTION 2.** Section 31-19-27, Mississippi Code of 1972, is  
61 brought forward as follows:

62 31-19-27. A doubtful claim of the state, or of the county,  
63 city, town, village, or levee board is one for which judgment has  
64 been rendered and for the collection of which the ordinary process  
65 of law has been ineffectual; debts due by drainage districts or  
66 other taxing districts or sinking funds to counties under the  
67 Rehabilitation Act of 1928, being Chapter 88 of the Laws of 1928,  
68 and Chapter 16 of the Acts of the Special Session of 1931; those  
69 debts due counties by drainage districts, which the Reconstruction



70 Finance Corporation has heretofore refused to refinance; debts due  
71 for sixteenth section township school fund loans made to churches,  
72 where the board of supervisors finds that the value of the  
73 security given therefor is insufficient or inadequate to pay or  
74 satisfy the principal and interest of said loan, and when the  
75 church repays the principal of said loan; and debts due by  
76 counties and townships to drainage districts for drainage district  
77 assessments or taxes levied and assessed upon sixteenth section  
78 lands.

79 **SECTION 3.** Section 31-19-29, Mississippi Code of 1972, is  
80 brought forward as follows:

81 31-19-29. The Governor, on the advice of the Attorney  
82 General or Chairman of the State Tax Commission, may, upon  
83 application of the defendant or debtor proposing a compromise,  
84 settle and compromise any doubtful claim of the state, or of any  
85 county, city, town, or village, or of any levee board against such  
86 defendant or debtor, upon such terms as he may deem proper, the  
87 board of supervisors in the case of a county, and the municipal  
88 authorities in the case of a city, town or village, and the levee  
89 board in the case of a claim of a levee board, concurring therein.  
90 The Governor, upon application of a drainage district having  
91 obligations outstanding to a county under the provisions of  
92 Chapter 88, Laws of 1928, and Chapter 16, Laws of the  
93 Extraordinary Session of 1931, or obligations which the  
94 Reconstruction Finance Corporation has heretofore refused to



95 refinance, may settle and compromise any claim, debt or obligation  
96 that said drainage district may owe any county in the State of  
97 Mississippi for money loaned said district under the provisions of  
98 said Chapter 88, Laws of 1928, or any other claim, debt or  
99 obligation that said drainage district may owe the county which  
100 the Reconstruction Finance Corporation has heretofore refused to  
101 finance, if the board of supervisors of said county concurs in the  
102 application of the drainage district. The Governor, upon  
103 application by the board of supervisors for any taxing districts  
104 of said county or sinking funds of said county under the control  
105 and supervision of said board of supervisors having obligations  
106 outstanding and due to said county under the provisions of Chapter  
107 88, Laws of 1928, and Chapter 16, Laws of the Extraordinary  
108 Session of 1931, may settle and compromise any claim, debt, or  
109 obligation that said taxing districts or sinking funds may owe  
110 said county for money loaned said taxing districts or sinking  
111 funds under the provisions of said Chapter 88, Laws of 1928; and  
112 provided that the Governor, on the advice of the Attorney General,  
113 and upon application of a church owing a sixteenth section  
114 township school fund loan, may settle and compromise such debt or  
115 obligation if the board of supervisors of the said county concurs  
116 in the application of the said church. The Governor may, on the  
117 advice of the Attorney General, in like manner compromise and  
118 settle a claim of a drainage district for unpaid assessments or  
119 taxes upon sixteenth section lands upon application of the board



120 of supervisors wherein such sixteenth section is situated, if the  
121 commissioners of the drainage district concur therein.

122           **SECTION 4.** This act shall take effect and be in force from  
123 and after July 1, 2017.

