

By: Representative Smith

To: Ways and Means

HOUSE BILL NO. 686

1 AN ACT TO AMEND SECTION 27-7-49, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE A TAXPAYER TO REQUEST A REVISION OF AN INCOME TAX RETURN
3 AT ANY TIME WITHIN THREE YEARS FROM THE DUE DATE, OR IF AN
4 EXTENSION OF TIME TO FILE WAS GRANTED, THREE YEARS FROM THE DATE
5 THE RETURN WAS FILED OR THE FINAL DAY OF THE EXTENSION PERIOD; TO
6 AMEND SECTION 27-65-42, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A
7 TAXPAYER TO REQUEST A REVISION OF THE SALES TAX ASSESSED AGAINST
8 HIM OR HER WITHIN 36 MONTHS FROM THE DATE OF THE ASSESSMENT OR
9 FROM THE DATE THE RETURN WAS FILED; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 27-7-49, Mississippi Code of 1972, is
12 amended as follows:

13 27-7-49. (1) Returns shall be examined by the commissioner
14 or his or her duly authorized agents within three (3) years from
15 the due date or the date the return was filed, whichever is later,
16 and no determination of a tax overpayment or deficiency shall be
17 made by the commissioner after the expiration of the three-year
18 period, except as provided in this section and as provided in
19 Section 27-7-307.

20 (2) When an examination of a return made under this article
21 has been commenced, and the taxpayer notified of the examination,



22 either by certified mail or personal delivery by an agent of the
23 commissioner, within the three-year examination period provided in
24 subsection (1) of this section, the determination of the correct
25 tax liability may be made by the commissioner after the expiration
26 of the three-year examination period, provided that the
27 determination shall be made within one (1) year after the
28 expiration of the three-year examination period; however, this
29 limitation and the limitation contained in subsection (1) of this
30 section shall not apply:

31 (a) To any tax period for which the taxpayer failed to
32 file a return, in which case the tax, including any applicable
33 penalties and interest, may be assessed by the commissioner at any
34 time and the tax, penalties and/or interest so assessed may be
35 collected by the commissioner as otherwise provided by law.

36 (b) In the case of a false or fraudulent return with
37 the intent to evade tax. In such a case the commissioner is
38 authorized to compute, determine and assess at any time the
39 estimated amount of tax due on the return, including any
40 applicable penalties and interest, from any information in his or
41 her possession, and after the tax, penalties and/or interest are
42 assessed, to collect them as otherwise provided by law.

43 (c) In the case of an agreement in writing entered into
44 by the commissioner and the taxpayer, made prior to the expiration
45 of the applicable time periods provided for in subsections (1) and
46 (2) of this section, consenting to the examination of a return.



47 In such a case the determination of a tax overpayment or
48 deficiency and/or the issuance of an assessment may be made within
49 the agreed upon period. The period agreed upon may be extended by
50 subsequent agreements in writing made before the expiration of the
51 previously agreed upon period.

52 (d) In a case in which a taxpayer requests an extension
53 of time for filing any return required by this article, and the
54 request is granted. In such a case the limitation of time for
55 examining the return and determining any tax overpayment or
56 assessing any tax deficiency from the return shall be extended for
57 a like period.

58 (3) Taxpayers shall keep and maintain an accurate and
59 complete set of records and other information sufficient to allow
60 the department to determine the correct amount of tax due. The
61 records and other information shall be open and available for
62 inspection by the department upon request at a reasonable time and
63 location. Refusal or delay by the taxpayer to provide
64 documentation for examination upon the department's request shall
65 result in an assessment being made from any information available,
66 which shall be prima facie correct.

67 (4) A taxpayer may apply to the commissioner for revision of
68 any return filed under this article at any time within three (3)
69 years from the due date, or if an extension of time to file was
70 granted, three (3) years from the date the return was filed. If
71 the return is not filed by the time authorized by the extension,



72 then the three (3) years begin to run from the final day of the
73 extension period.

74 (* * *5) Where the reported taxable income of a taxpayer
75 has been increased or decreased by the Internal Revenue Service,
76 the three-year examination period provided in subsection (1) of
77 this section shall not be applicable, insofar as the Mississippi
78 income tax liability is affected by the specific changes made by
79 said Internal Revenue Service. However, no additional assessment
80 or no refund shall be made under the provisions of this article
81 after three (3) years from the date the Internal Revenue Service
82 disposes of the tax liability in question.

83 (* * *6) Where the reportable taxable income of a taxpayer
84 has been decreased by the carryback of a net casualty loss
85 deduction under Section 27-7-20 or the carryback of a net
86 operating loss deduction under Section 27-7-17, the three-year
87 examination period provided under subsection (1) of this section
88 shall not be applicable insofar as the Mississippi income tax
89 liability is affected by the carryback of the net casualty loss
90 deduction or the carryback of the net operating loss deduction.

91 **SECTION 2.** Section 27-65-42, Mississippi Code of 1972, is
92 amended as follows:

93 27-65-42. (1) The amount of taxes due on any return which
94 has been filed as required by this chapter shall be determined and
95 assessed within thirty-six (36) months from the date the return



was filed except as otherwise provided in this section and Section 27-65-55.

(2) When an examination of a taxpayer's records to verify returns made under this chapter has been initiated and the taxpayer notified of the examination, either by certified mail or personal delivery by an agent of the commissioner, within the thirty-six-month examination period provided for in subsection (1) of this section, the determination of the correct tax liability shall be made by the commissioner within one (1) year after the expiration of the thirty-six-month examination period; however, this limitation shall not apply:

(a) To any tax period for which the taxpayer failed to file a return, in which case the tax, including any applicable penalties and interest, may be assessed by the commissioner at any time and the tax, penalties and/or interest so assessed may be collected by the commissioner as otherwise provided by law.

(b) In the case of a false or fraudulent return with the intent to evade tax. In such a case the commissioner is authorized to compute, determine, and assess at any time the estimated amount of tax due on the return, including any applicable penalties and interest, from any information in his or her possession, and after the tax, penalties and/or interest are assessed, to collect them as otherwise provided by law.

(c) In the case of an agreement in writing entered into by the commissioner and the taxpayer, made prior to the expiration



of the applicable time periods provided for in subsections (1) and (2) of this section, consenting to the examination of a return. In such a case the determination of a tax overpayment or deficiency and/or the issuance of an assessment may be made within the agreed upon period. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the previously agreed upon period.

(d) In a case in which a taxpayer requests an extension of time for filing any return required by this chapter, and the request is granted. In such a case the limitation of time for examining the return and determining any tax overpayment or assessing any tax deficiency from the return shall be extended for a like period.

(3) A taxpayer may apply to the commissioner for revision of the tax assessed against him or her, or paid by him or her, at any time within thirty-six (36) months from the date of the assessment or from the date the return was filed. Unless a claim for credit or refund is filed by the taxpayer within thirty-six (36) months from the time the return was filed or assessment made, no credit or refund shall be allowed.

(* * *4) Taxpayers shall keep and maintain an accurate and complete set of records and other information sufficient to allow the department to determine the correct amount of tax due. The records and other information shall be open and available for inspection by the department upon request at a reasonable time and



146 location. Refusal or delay by the taxpayer to provide
147 documentation for examination upon the department's request shall
148 result in an assessment being made from any information available,
149 which shall be prima facie correct.

150 **SECTION 3.** This act shall take effect and be in force from
151 and after January 1, 2017.

