

By: Representative Smith

To: Ways and Means

HOUSE BILL NO. 1313

1 AN ACT TO AMEND SECTION 27-65-37, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE TYPE OF INFORMATION THAT THE COMMISSIONER OF REVENUE
3 MAY CONSIDER WHEN ASSESSING A TAXPAYER'S SALES TAX LIABILITY WHERE
4 THE TAXPAYER HAS FAILED TO MAINTAIN ADEQUATE RECORDS OF GROSS
5 INCOME OR GROSS PROCEEDS OF SALES OR FAILS TO PAY OR UNDERPAYS THE
6 TAX; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 27-65-37, Mississippi Code of 1972, is
9 amended as follows:

10 27-65-37. (1) If adequate records of the gross income or
11 gross proceeds of sales are not maintained or invoices preserved
12 as provided herein, or if an audit of the records of a taxpayer,
13 or any return filed by him, or any other information discloses
14 that taxes are due and unpaid, the commissioner shall make
15 assessments of taxes, damages, and interest from * * * the best
16 information available, which shall be prima facie correct.
17 However, if in an audit of the records of a taxpayer it is
18 determined that during the period being audited the taxpayer
19 reported and paid tax in accordance with a method used during a
20 prior period which had been audited by the commissioner and not



21 found to result in any additional tax due, the commissioner shall
22 be estopped from collecting any additional tax as a result of the
23 use of this previously audited method for any period prior to
24 notification by the commissioner or his agent during the current
25 audit that use of the previously audited method would result in
26 additional tax being due if it is determined, through all
27 information available regarding this taxpayer, that:

28 (a) The method in issue was previously audited by the
29 commissioner with no additional tax determined to be due under
30 such method;

31 (b) The method under consideration in the current audit
32 is the same method that was used in the prior audit;

33 (c) There has not been a statutory or regulatory change
34 that would have resulted in additional tax being due under this
35 method after the statutory or regulatory change; and

36 (d) The taxpayer detrimentally relied on the fact that
37 this method had been previously audited and not found to result in
38 additional tax.

39 (2) The commissioner shall give notice to the taxpayer of
40 the assessments and demand payment of the tax, damages and
41 interest within sixty (60) days from the date the commissioner
42 mailed or hand delivered the notice. The notice shall be sent by
43 regular first class mail or delivered by an agent of the
44 commissioner. In the case of an individual, the notice shall be
45 sent by mail to the taxpayer or delivered by an agent of the



46 commissioner to the taxpayer, to a manager or general agent at the
47 taxpayer's place of business or to someone above the age of
48 sixteen (16) years at the taxpayer's residence. In the case of a
49 partnership, the notice shall be sent by mail to the partnership
50 or delivered by an agent of the commissioner to any partner, to a
51 manager or general agent at the taxpayer's place of business or to
52 someone above the age of sixteen (16) years at the residence of
53 any partner. In the case of a corporation, limited liability
54 company, joint venture, association, estate, trust or other group
55 or combination acting as a unit, including any government entity,
56 the notice shall be sent by mail to the taxpayer or delivered by
57 an agent of the commissioner to an officer of the entity, to
58 someone above the age of sixteen (16) years at the residence of an
59 officer of the entity or to a manager or general agent at the
60 taxpayer's place of business.

61 (3) If the taxpayer shall fail or refuse to comply with the
62 notice of assessment or shall fail to petition for a hearing, the
63 commissioner shall proceed as provided in Section 27-65-39.

64 **SECTION 2.** This act shall take effect and be in force from
65 and after July 1, 2017.

