

By: Senator(s) McDaniel

To: Finance

SENATE BILL NO. 3010

1 AN ACT TO CREATE THE "INTERNET PROTECTION AND TAX RELIEF
 2 ACT"; TO AMEND SECTION 27-67-7, MISSISSIPPI CODE OF 1972, TO
 3 EXEMPT THE USE, STORAGE OR CONSUMPTION OF ITEMS PURCHASED THROUGH
 4 THE USE OF THE INTERNET FROM SALES TAXATION; TO AMEND SECTION
 5 27-67-13, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE DEPARTMENT OF
 6 REVENUE FROM AUDITING TAXPAYERS FOR NONPAYMENT OF USE TAXES; TO
 7 PROVIDE THAT CERTAIN RULES REGARDING THE COLLECTION OF USE TAX BY
 8 OUT-OF-STATE SELLERS PROPOSED BY THE DEPARTMENT OF REVENUE SHALL
 9 NOT TAKE EFFECT; TO CREATE A COMMITTEE TO STUDY PHASING OUT INCOME
 10 TAXATION OF CORPORATIONS; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 27-67-7, Mississippi Code of 1972, is
 13 amended as follows:

14 27-67-7. The tax levied by this article shall not be
 15 collected in the following instances:

16 (a) On the use, storage or consumption of any tangible
 17 personal property or specified digital products if the sale
 18 thereof has already been included in the measure of this tax or
 19 the tax imposed by Section 27-65-20 or Section 27-65-17, 27-65-19,
 20 27-65-25 or 27-65-26, or has already been included in the measure
 21 of a sales tax imposed by another state in which the property or
 22 products were sold or use tax imposed by some other state in which



23 the property was used. If the rate of sales or use tax paid
24 another state by the person using the property or products in
25 Mississippi is not equal to or greater than the rate imposed by
26 this article, then the user or purchaser shall apply the
27 difference in these rates to the purchase price or value of the
28 property or products and pay to the commissioner the amount of tax
29 thus computed. Persons using business property or products in
30 this state which has been used by them in other states shall be
31 entitled to a credit for sales and/or use tax paid to other states
32 equal to the aggregate of all such state rates multiplied by the
33 value of the property or products at the time of importation into
34 this state. Persons using business property or products in this
35 state which were acquired from another person who used it in other
36 states shall be entitled to a credit equal to the applicable rate
37 in the state of last prior use multiplied by the value of the
38 property or products at the time of importation into this state.
39 However, credit for use tax paid to another state shall not apply
40 on the purchase price of tangible personal property or specified
41 digital products that have been only stored or warehoused in the
42 other state and the first use of the property or products occurs
43 in Mississippi. Provided further, that credit for sales or use
44 tax paid to another state shall not apply on the purchase price or
45 value of automobiles, trucks, truck-tractors, semitrailers,
46 trailers, boats, travel trailers, motorcycles and all-terrain
47 cycles imported and first used in Mississippi.



48 Credit for sales or use tax paid to another state as provided
49 in this paragraph (a) shall be evidenced by an invoice clearly and
50 correctly showing the amount of the tax as a separate item, and no
51 credit shall be allowed otherwise.

52 (b) On the use, storage or consumption of tangible
53 personal property or specified digital products to the extent that
54 sales of similar property or products in Mississippi are either
55 excluded or specifically exempt from sales tax or are taxed at the
56 wholesale rate.

57 This exemption shall be confined to the use of property or
58 products the sale of which is an itemized exemption in the
59 Mississippi Sales Tax Law, or to use by persons who are listed in
60 the Mississippi Sales Tax Law as being exempt from sales tax.

61 (c) On the use, storage or consumption of tangible
62 personal property or specified digital products brought into this
63 state by a nonresident for his or her use or enjoyment while
64 temporarily within the state, but not including tangible personal
65 property or specified digital products brought in for use in
66 connection with a business activity. This exemption shall not
67 apply to property or products which remain situated in this state
68 for the repeated use, storage or consumption by out-of-state
69 visitors, or which is acquired by visitors and first used in this
70 state.

71 (d) On the use of a motor vehicle for which a
72 registration is required by the motor vehicle law, when such motor



73 vehicle was purchased by a natural person for his personal or
74 family use while such person was a bona fide resident of another
75 state and who thereafter became a resident of this state, but not
76 to include a motor vehicle which is transferred by the owner for
77 commercial use or for use by another person within this state.

78 (e) On the use of personal and household effects by a
79 natural person acquired while the person was a bona fide resident
80 of another state, and who thereafter became a resident of this
81 state.

82 (f) On the use or rental of motion picture film,
83 video-audio tapes, phonograph records or specified digital
84 products for exhibition either by a person paying Mississippi
85 sales tax on gross income from admissions for the exhibitions or
86 by a person operating a television or radio broadcasting station.

87 (g) On any vehicle purchased in another state for use
88 outside of this state by a Mississippi citizen serving in the
89 Armed Forces and stationed in another state who elects to license
90 the vehicle in Mississippi.

91 (h) On the cost or value and on the use, storage and
92 consumption of rail rolling stock and component parts thereof.

93 (i) On the use, storage or consumption of literature,
94 video tapes, photographic slides or specified digital products
95 used by religious institutions for the propagation of their creeds
96 or for carrying on their customary nonprofit religious activities,
97 and on the use of any tangible personal property or specified



98 digital products purchased and first used in another state by
99 religious institutions for the propagation of their creeds or for
100 carrying on their customary nonprofit religious activities.
101 "Religious institution," for the purpose of this exemption, means
102 any religious institution granted an exemption under 26 USCS
103 Section 501(c) (3). Any exemption under this paragraph obtained by
104 fraud, misstatement or misrepresentation shall be cancelled by
105 the * * * Department of Revenue, and the person committing the
106 fraud, misstatement or misrepresentation shall be liable for
107 prosecution for fraud on the assessment, and, on conviction, shall
108 be fined not less than One Thousand Dollars (\$1,000.00), or
109 punished by imprisonment in the State Penitentiary for a term not
110 to exceed five (5) years, or both, within the discretion of the
111 court.

112 (j) The tax on the cost or value of farm machinery used
113 in the harvesting of agricultural products shall be limited to the
114 ratio of use within this state to the life of the property.

115 (k) [Repealed]

116 (l) On the use of machinery and equipment; special
117 tooling such as dies, molds, jigs and similar items treated as
118 special tooling for federal income tax purposes; or repair parts
119 therefor or replacements thereof; or repair services thereon; by a
120 taxpayer other than the manufacturer when the manufacturer still
121 holds title to the items and the items are purchased by the
122 manufacturer as a part of a project as defined in Section



123 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section
124 57-75-5(f)(xxii).

125 (m) On the use, storage or consumption of utilities
126 purchased by a manufacturer described in Section 27-65-101(x).

127 (n) On the use, storage or consumption of utilities
128 purchased by an enterprise described in Section 27-65-101(cc).

129 (o) On the use, storage or consumption of jet aircraft
130 engines that are temporarily located within the State of
131 Mississippi and are brought into the state for research and/or
132 testing purposes at a jet aircraft engine research and testing
133 facility.

134 (p) On the use, storage or consumption of items
135 purchased through the use of the Internet.

136 **SECTION 2.** Section 27-67-13, Mississippi Code of 1972, is
137 amended as follows:

138 27-67-13. Any person who uses, stores, or consumes any
139 tangible personal property or specified digital products upon
140 which a tax is herein imposed, or who has received a service which
141 is taxable, upon which the tax has not been paid to the
142 commissioner or to a seller authorized by the commissioner to
143 collect the tax, shall be liable therefor, and shall file returns
144 and pay the tax due the state to the commissioner as provided by
145 this article * * * however, the department shall not audit any
146 taxpayer for nonpayment of use taxes.



147 **SECTION 3.** The rules submitted by the Mississippi Department
148 of Revenue to the Secretary of State on January 12, 2017, being
149 "Title 35, Part IV, Subpart 3, Chapter 9 Out of State Sales into
150 the State", shall not take effect and are hereby declared to be
151 void.

152 **SECTION 4.** (1) There is created a study committee to study
153 phasing out income taxation of corporations in Mississippi. The
154 committee shall make a report of its findings and recommendations,
155 including any recommended legislation, to the Legislature before
156 December 31, 2017.

157 (2) The committee shall be composed of the following
158 members:

159 (a) Three (3) members of the House of Representatives
160 appointed by the Speaker of the House of Representatives;

161 (b) Three (3) members of the Senate appointed by the
162 Lieutenant Governor; and

163 (c) The Commissioner of Revenue.

164 Appointments must be made within thirty (30) days after the
165 effective date of this act. Within fifteen (15) days after the
166 period designated for making appointments, on a day to be
167 designated jointly by the Lieutenant Governor and the Speaker of
168 the House, the committee shall meet and organize by selecting from
169 its membership a chairman and a vice chairman. The vice chairman
170 will serve as secretary and is responsible for keeping all records
171 of the committee. A majority of the members of the committee



172 constitutes a quorum. An affirmative vote of a majority of the
173 committee is required in the transaction of all business. All
174 members must be notified in writing of all meetings, and such
175 notices must be mailed at least five (5) days before the date on
176 which a meeting is to be held.

177 (3) Legislative members of the committee shall be paid from
178 the contingent expense funds of their respective houses in the
179 same manner as provided for committee meetings when the
180 Legislature is not in session; however, no per diem or expense for
181 attending meetings of the committee may be paid while the
182 Legislature is in session. A committee member may not incur per
183 diem, travel or other expenses unless previously authorized by
184 vote, at a meeting of the committee, which action must be recorded
185 in the official minutes of the meeting.

186 (4) The committee may utilize clerical and legal staff
187 already employed by the Legislature and any other staff assistance
188 made available to it. To effectuate the purpose of this act, upon
189 the request of the chairman of the committee, any department,
190 division, board, bureau, commission or agency of the state or of
191 any political subdivision of the state shall provide to the
192 committee such facilities, assistance and data that will enable
193 the committee to properly carry out its task.

194 (5) Upon presentation of its report to the Legislature, the
195 committee shall be dissolved.



196 **SECTION 5.** This act shall be known and may be cited as the
197 "Internet Protection and Tax Relief Act."

198 **SECTION 6.** This act shall take effect and be in force from
199 and after July 1, 2017.

