

By: Representative Eubanks

To: Ways and Means

HOUSE BILL NO. 755

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAXATION SALES OF TANGIBLE PERSONAL PROPERTY
3 OR SERVICES TO A CHURCH THAT IS EXEMPT FROM FEDERAL INCOME
4 TAXATION UNDER THE UNITED STATES INTERNAL REVENUE CODE FOR USE
5 SOLELY IN THE PROPAGATION OF ITS CREED OR CARRYING ON ITS
6 CUSTOMARY NONPROFIT RELIGIOUS ACTIVITIES; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** Section 27-65-111, Mississippi Code of 1972, is
10 amended as follows:

11 27-65-111. The exemptions from the provisions of this
12 chapter which are not industrial, agricultural or governmental, or
13 which do not relate to utilities or taxes, or which are not
14 properly classified as one (1) of the exemption classifications of
15 this chapter, shall be confined to persons or property exempted by
16 this section or by the Constitution of the United States or the
17 State of Mississippi. No exemptions as now provided by any other
18 section, except the classified exemption sections of this chapter
19 set forth herein, shall be valid as against the tax herein levied.



Any subsequent exemption from the tax levied hereunder, except as indicated above, shall be provided by amendments to this section.

No exemption provided in this section shall apply to taxes levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

The tax levied by this chapter shall not apply to the following:

(a) Sales of tangible personal property and services to hospitals or infirmaries owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual, and which are subject to and governed by Sections 41-7-123 through 41-7-127.

Only sales of tangible personal property or services which are ordinary and necessary to the operation of such hospitals and infirmaries are exempted from tax.

(b) Sales of daily or weekly newspapers, and periodicals or publications of scientific, literary or educational organizations exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of March 31, 1975, and subscription sales of all magazines.

(c) Sales of coffins, caskets and other materials used in the preparation of human bodies for burial.

(d) Sales of tangible personal property for immediate export to a foreign country.

(e) Sales of tangible personal property to an orphanage, old men's or ladies' home, supported wholly or in part



by a religious denomination, fraternal nonprofit organization or other nonprofit organization.

(f) Sales of tangible personal property, labor or services taxable under Sections 27-65-17, 27-65-19 and 27-65-23, to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual.

(g) Sales to elementary and secondary grade schools, junior and senior colleges owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual, and which are exempt from state income taxation, provided that this exemption does not apply to sales of property or services which are not to be used in the ordinary operation of the school, or which are to be resold to the students or the public.

(h) The gross proceeds of retail sales and the use or consumption in this state of drugs and medicines:

(i) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed or prescription filled by a registered pharmacist in accordance with law; or

(ii) Furnished by a licensed physician, surgeon, dentist or podiatrist to his own patient for treatment of the patient; or



(iii) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, surgeon, dentist or podiatrist; or

(iv) Sold to a licensed physician, surgeon, podiatrist, dentist or hospital for the treatment of a human being; or

(v) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof.

"Medicines," as used in this paragraph (h), shall mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use; provided that "medicines" do not include any auditory, prosthetic, ophthalmic or ocular device or appliance, any dentures or parts thereof or any artificial limbs or their replacement parts, articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices or other mechanical, electronic, optical or physical equipment or article or the component parts



94 and accessories thereof, or any alcoholic beverage or any other
95 drug or medicine not commonly referred to as a prescription drug.

96 Notwithstanding the preceding sentence of this paragraph (h),
97 "medicines" as used in this paragraph (h), shall mean and include
98 sutures, whether or not permanently implanted, bone screws, bone
99 pins, pacemakers and other articles permanently implanted in the
100 human body to assist the functioning of any natural organ, artery,
101 vein or limb and which remain or dissolve in the body.

102 "Hospital," as used in this paragraph (h), shall have the
103 meaning ascribed to it in Section 41-9-3, Mississippi Code of
104 1972.

105 Insulin furnished by a registered pharmacist to a person for
106 treatment of diabetes as directed by a physician shall be deemed
107 to be dispensed on prescription within the meaning of this
108 paragraph (h).

109 (i) Retail sales of automobiles, trucks and
110 truck-tractors if exported from this state within forty-eight (48)
111 hours and registered and first used in another state.

112 (j) Sales of tangible personal property or services to
113 the Salvation Army and the Muscular Dystrophy Association, Inc.

114 (k) From July 1, 1985, through December 31, 1992,
115 retail sales of "alcohol blended fuel" as such term is defined in
116 Section 75-55-5. The gasoline-alcohol blend or the straight
117 alcohol eligible for this exemption shall not contain alcohol
118 distilled outside the State of Mississippi.



(l) Sales of tangible personal property or services to the Institute for Technology Development.

(m) The gross proceeds of retail sales of food and drink for human consumption made through vending machines serviced by full line vendors from and not connected with other taxable businesses.

(n) The gross proceeds of sales of motor fuel.

(o) Retail sales of food for human consumption purchased with food stamps issued by the United States Department of Agriculture, or other federal agency, from and after October 1, 1987, or from and after the expiration of any waiver granted pursuant to federal law, the effect of which waiver is to permit the collection by the state of tax on such retail sales of food for human consumption purchased with food stamps.

(p) Sales of cookies for human consumption by the Girl Scouts of America no part of the net earnings from which sales inures to the benefit of any private group or individual.

(q) Gifts or sales of tangible personal property or services to public or private nonprofit museums of art.

(r) Sales of tangible personal property or services to alumni associations of state-supported colleges or universities.

(s) Sales of tangible personal property or services to National Association of Junior Auxiliaries, Inc., and chapters of the National Association of Junior Auxiliaries, Inc.



(t) Sales of tangible personal property or services to domestic violence shelters which qualify for state funding under Sections 93-21-101 through 93-21-113.

(u) Sales of tangible personal property or services to the National Multiple Sclerosis Society, Mississippi Chapter.

(v) Retail sales of food for human consumption purchased with food instruments issued the Mississippi Band of Choctaw Indians under the Women, Infants and Children Program (WIC) funded by the United States Department of Agriculture.

(w) Sales of tangible personal property or services to a private company, as defined in Section 57-61-5, which is making such purchases with proceeds of bonds issued under Section 57-61-1 et seq., the Mississippi Business Investment Act.

(x) The gross collections from the operation of self-service, coin-operated car washing equipment and sales of the service of washing motor vehicles with portable high-pressure washing equipment on the premises of the customer.

(y) Sales of tangible personal property or services to the Mississippi Technology Alliance.

(z) Sales of tangible personal property to nonprofit organizations that provide foster care, adoption services and temporary housing for unwed mothers and their children if the organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.



167 (aa) Sales of tangible personal property to nonprofit
168 organizations that provide residential rehabilitation for persons
169 with alcohol and drug dependencies if the organization is exempt
170 from federal income taxation under Section 501(c)(3) of the
171 Internal Revenue Code.

172 (bb) Retail sales of an article of clothing or footwear
173 designed to be worn on or about the human body if the sales price
174 of the article is less than One Hundred Dollars (\$100.00) and the
175 sale takes place during a period beginning at 12:01 a.m. on the
176 last Friday in July and ending at 12:00 midnight the following
177 Saturday. This paragraph (bb) shall not apply to:

178 (i) Accessories including jewelry, handbags,
179 luggage, umbrellas, wallets, watches, backpacks, briefcases,
180 garment bags and similar items carried on or about the human body,
181 without regard to whether worn on the body in a manner
182 characteristic of clothing;

183 (ii) The rental of clothing or footwear; and

184 (iii) Skis, swim fins, roller blades, skates and
185 similar items worn on the foot.

186 From and after January 1, 2010, the governing authorities of
187 a municipality, for retail sales occurring within the corporate
188 limits of the municipality, may suspend the application of the
189 exemption provided for in this paragraph (bb) by adoption of a
190 resolution to that effect stating the date upon which the
191 suspension shall take effect. A certified copy of the resolution



shall be furnished to the Department of Revenue at least ninety (90) days prior to the date upon which the municipality desires such suspension to take effect.

(cc) The gross proceeds of sales of tangible personal property made for the sole purpose of raising funds for a school or an organization affiliated with a school.

As used in this paragraph (cc), "school" means any public or private school that teaches courses of instruction to students in any grade from kindergarten through Grade 12.

(dd) Sales of durable medical equipment and home medical supplies when ordered or prescribed by a licensed physician for medical purposes of a patient. As used in this paragraph (dd), "durable medical equipment" and "home medical supplies" mean equipment, including repair and replacement parts for the equipment or supplies listed under Title XVIII of the Social Security Act or under the state plan for medical assistance under Title XIX of the Social Security Act, prosthetics, orthotics, hearing aids, hearing devices, prescription eyeglasses, oxygen and oxygen equipment. Payment does not have to be made, in whole or in part, by any particular person to be eligible for this exemption. Purchases of home medical equipment and supplies by a provider of home health services or a provider of hospice services are eligible for this exemption if the purchases otherwise meet the requirements of this paragraph.



(ee) Sales of tangible personal property or services to Mississippi Blood Services.

(ff) (i) Subject to the provisions of this paragraph (ff), retail sales of firearms, ammunition and hunting supplies if sold during the annual Mississippi Second Amendment Weekend holiday beginning at 12:01 a.m. on the last Friday in August and ending at 12:00 midnight the following Sunday. For the purposes of this paragraph (ff), "hunting supplies" means tangible personal property used for hunting, including, and limited to, archery equipment, firearm and archery cases, firearm and archery accessories, hearing protection, holsters, belts and slings. Hunting supplies does not include animals used for hunting.

(ii) This paragraph (ff) shall apply only if one or more of the following occur:

1. Title to and/or possession of an eligible item is transferred from a seller to a purchaser; and/or

2. A purchaser orders and pays for an eligible item and the seller accepts the order for immediate shipment, even if delivery is made after the time period provided in subparagraph (i) of this paragraph (ff), provided that the purchaser has not requested or caused the delay in shipment.

(gg) Sales of nonperishable food items to charitable organizations that are exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and operate a food bank or food pantry or food lines.



241 (hh) Sales of tangible personal property or services to
242 the United Way of the Pine Belt Region, Inc.

243 (ii) Sales of tangible personal property or services to
244 the Mississippi Children's Museum or any subsidiary or affiliate
245 thereof operating a satellite or branch museum within this state.

246 (jj) Sales of tangible personal property or services to
247 the Jackson Zoological Park.

248 (kk) Sales of tangible personal property or services to
249 the Hattiesburg Zoo.

250 (ll) Gross proceeds from sales of food, merchandise or
251 other concessions at an event held solely for religious or
252 charitable purposes at livestock facilities, agriculture
253 facilities or other facilities constructed, renovated or expanded
254 with funds for the grant program authorized under Section 18,
255 Chapter 530, Laws of 1995.

256 (mm) Sales of tangible personal property and services
257 to the Diabetes Foundation of Mississippi and the Mississippi
258 Chapter of the Juvenile Diabetes Research Foundation.

259 (nn) Sales of potting soil, mulch, or other soil
260 amendments used in growing ornamental plants which bear no fruit
261 of commercial value when sold to commercial plant nurseries that
262 operate exclusively at wholesale and where no retail sales can be
263 made.



264 (oo) Sales of tangible personal property or services to
265 the University of Mississippi Medical Center Research Development
266 Foundation.

267 (pp) Sales of tangible personal property or services to
268 Keep Mississippi Beautiful, Inc., and all affiliates of Keep
269 Mississippi Beautiful, Inc.

270 (qq) Sales of tangible personal property or services to
271 the Friends of Children's Hospital.

272 (rr) Sales of tangible personal property or services to
273 the Pinecrest Weekend Backpacks for Kids located in Corinth,
274 Mississippi.

275 (ss) Sales of hearing aids when ordered or prescribed
276 by a licensed physician, audiologist or hearing aid specialist for
277 the medical purposes of a patient.

278 (tt) Sales exempt under the Facilitating Business Rapid
279 Response to State Declared Disasters Act of 2015 (Sections
280 27-113-1 through 27-113-9).

281 (uu) Sales of tangible personal property or services to
282 a church that is exempt from federal income taxation under 26 USCS
283 Section 501(c)(3) for use solely in the propagation of its creed
284 or carrying on its customary nonprofit religious activities,
285 provided that payment in whole therefor is made by use of a credit
286 card, debit card or similar card issued in the name of the church
287 and/or a check or other instrument drawn on a bank account in the
288 name of the church.



289 **SECTION 2.** Nothing in this act shall affect or defeat any
290 claim, assessment, appeal, suit, right or cause of action for
291 taxes due or accrued under the sales tax laws before the date on
292 which this act becomes effective, whether such claims,
293 assessments, appeals, suits or actions have been begun before the
294 date on which this act becomes effective or are begun thereafter;
295 and the provisions of the sales tax laws are expressly continued
296 in full force, effect and operation for the purpose of the
297 assessment, collection and enrollment of liens for any taxes due
298 or accrued and the execution of any warrant under such laws before
299 the date on which this act becomes effective, and for the
300 imposition of any penalties, forfeitures or claims for failure to
301 comply with such laws.

302 **SECTION 3.** This act shall take effect and be in force from
303 and after July 1, 2018.

