

By: Senator(s) Harkins

To: Finance

SENATE BILL NO. 2831

1 AN ACT TO BRING FORWARD SECTIONS 27-65-3, 27-65-7, 27-65-9,
2 27-65-19, 27-65-23, 27-65-101, 27-67-3, 27-67-5, 27-67-7 AND
3 27-67-11, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE
4 AMENDMENT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 27-65-3, Mississippi Code of 1972, is
7 brought forward as follows:

8 27-65-3. The words, terms and phrases, when used in this
9 chapter, shall have the meanings ascribed to them herein.

10 (a) "Tax Commission" or "department" means the
11 Department of Revenue of the State of Mississippi.

12 (b) "Commissioner" means the Commissioner of Revenue of
13 the Department of Revenue.

14 (c) "Person" means and includes any individual, firm,
15 copartnership, joint venture, association, corporation, promoter
16 of a temporary event, estate, trust or other group or combination
17 acting as a unit, and includes the plural as well as the singular
18 in number. "Person" shall include husband or wife, or both, where
19 joint benefits are derived from the operation of a business taxed



20 hereunder. "Person" shall also include any state, county,
21 municipal or other agency or association engaging in a business
22 taxable under this chapter.

23 (d) "Tax year" or "taxable year" means either the
24 calendar year or the taxpayer's fiscal year.

25 (e) "Taxpayer" means any person liable for or having
26 paid any tax to the State of Mississippi under the provisions of
27 this chapter. A taxpayer is required to obtain a sales tax permit
28 under Section 27-65-27 before engaging in business in this state.
29 If a taxpayer fails to obtain a sales tax permit before engaging
30 in business in this state, the taxpayer shall pay the retail rate
31 on all purchases of tangible personal property and/or services in
32 this state, even if purchased for resale. Upon obtaining a sales
33 tax permit, a previously unregistered taxpayer shall file sales
34 tax returns for all tax periods during which he engaged in
35 business in this state without a sales tax permit, and report and
36 pay the sales tax accruing from his operation during this period
37 and any applicable penalties and interest. On such return, the
38 taxpayer may take a credit for any sales taxes paid during the
39 period he operated without a sales tax permit on a purchase that
40 would have constituted a wholesale sale if the taxpayer had a
41 sales tax permit at the time of the purchase and if proper
42 documentation exists to substantiate a wholesale sale. This
43 credit may also be allowed in any audit of the taxpayer. Any
44 penalties and interest owed by the taxpayer on the return or in an



45 audit for a period during which he operated without a sales tax
46 permit may be determined based on the sales tax accruing from the
47 taxpayer's operation for that period after the taking of this
48 credit.

49 (f) "Sale" or "sales" includes the barter or exchange
50 of property as well as the sale thereof for money or other
51 consideration, and every closed transaction by which the title to
52 taxable property passes shall constitute a taxable event.

53 "Sale" shall also include the passing of title to property
54 for a consideration of coupons, trading stamps or by any other
55 means when redemption is subsequent to the original sale by which
56 the coupon, stamp or other obligation was created.

57 The situs of a sale for the purpose of distributing taxes to
58 municipalities shall be the same as the location of the business
59 from which the sale is made except that:

60 (i) Retail sales along a route from a vehicle or
61 otherwise by a transient vendor shall take the situs of delivery
62 to the customer.

63 (ii) The situs of wholesale sales of tangible
64 personal property taxed at wholesale rates, the amount of which is
65 allowed as a credit against the sales tax liability of the
66 retailer, shall be the same as the location of the business of the
67 retailer receiving the credit.

68 (iii) The situs of wholesale sales of tangible
69 personal property taxed at wholesale rates, the amount of which is



70 not allowed as a credit against the sales tax liability of the
71 retailer, shall have a rural situs.

72 (iv) Income received from the renting or leasing
73 of property used for transportation purposes between cities or
74 counties shall have a rural situs.

75 (g) "Delivery charges" shall mean and include any
76 expenses incurred by a seller in acquiring merchandise for sale in
77 the regular course of business commonly known as "freight-in" or
78 "transportation costs-in." "Delivery charges" also include any
79 charges made by the seller for delivery of property sold to the
80 purchaser.

81 (h) "Gross proceeds of sales" means the value
82 proceeding or accruing from the full sale price of tangible
83 personal property, including installation charges, without any
84 deduction for delivery charges, cost of property sold, other
85 expenses or losses, or taxes of any kind except those expressly
86 exempt by this chapter.

87 "Gross proceeds of sales" includes consideration received by
88 the seller from third parties if:

89 (i) The seller actually received consideration
90 from a party other than the purchaser and the consideration is
91 directly related to a price reduction or discount on the sale;

92 (ii) The seller has an obligation to pass the
93 price reduction or discount through to the purchaser;



94 (iii) The amount of the consideration attributable
95 to the sale is fixed and determinable by the seller at the time of
96 the sale of the item to the purchaser; and

97 (iv) One (1) of the following criteria is met:

98 1. The purchaser presents a coupon,
99 certificate or other documentation to the seller to claim a price
100 reduction or discount where the coupon, certificate or
101 documentation is authorized, distributed or granted by a third
102 party with the understanding that the third party will reimburse
103 any seller to whom the coupon, certificate or documentation is
104 presented;

105 2. The purchaser identified himself or
106 herself to the seller as a member of a group or organization
107 entitled to a price reduction or discount (a "preferred customer"
108 card that is available to any patron does not constitute
109 membership in such a group); or

110 3. The price reduction or discount is
111 identified as a third-party price reduction or discount on the
112 invoice received by the purchaser or on a coupon, certificate or
113 other documentation presented by the purchaser.

114 Where a trade-in is taken as part payment on tangible
115 personal property sold, "gross proceeds of sales" shall include
116 only the difference received between the selling price of the
117 tangible personal property and the amount allowed for a trade-in
118 of property of the same kind. When the trade-in is subsequently



119 sold, the selling price thereof shall be included in "gross
120 proceeds of sales."

121 "Gross proceeds of sales" shall include the value of any
122 goods, wares, merchandise or property purchased at wholesale or
123 manufactured, and any mineral or natural resources produced, which
124 are withdrawn or used from an established business or from the
125 stock in trade for consumption or any other use in the business or
126 by the owner. However, "gross proceeds of sales" does not include
127 meals prepared by a restaurant and provided at no charge to
128 employees of the restaurant or donated to a charitable
129 organization that regularly provides food to the needy and the
130 indigent and which has been granted exemption from the federal
131 income tax as an organization described in Section 501(c)(3) of
132 the Internal Revenue Code of 1986.

133 "Gross proceeds of sales" shall not include bad check or
134 draft service charges as provided for in Section 97-19-57.

135 "Gross proceeds of sales" does not include finance charges,
136 carrying charges or any other addition to the selling price as a
137 result of deferred payments by the purchaser.

138 (i) "Gross income" means the total charges for service
139 or the total receipts (actual or accrued) derived from trades,
140 business or commerce by reason of the investment of capital in the
141 business engaged in, including the sale or rental of tangible
142 personal property, compensation for labor and services performed,
143 and including the receipts from the sales of property retained as



144 toll, without any deduction for rebates, cost of property sold,
145 cost of materials used, labor costs, interest paid, losses or any
146 expense whatever.

147 "Gross income" shall also include the cost of property given
148 as compensation when the property is consumed by a person
149 performing a taxable service for the donor.

150 However, "gross income" or "gross proceeds of sales" shall
151 not be construed to include the value of goods returned by
152 customers when the total sale price is refunded either in cash or
153 by credit, or cash discounts allowed and taken on sales. Cash
154 discounts shall not include the value of trading stamps given with
155 a sale of property.

156 (j) "Tangible personal property" means personal
157 property perceptible to the human senses or by chemical analysis
158 as opposed to real property or intangibles and shall include
159 property sold on an installed basis which may become a part of
160 real or personal property.

161 (k) "Installation charges" shall mean and include the
162 charge for the application of tangible personal property to real
163 or personal property without regard to whether or not it becomes a
164 part of the real property or retains its personal property
165 classification. It shall include, but not be limited to, sales in
166 place of roofing, tile, glass, carpets, drapes, fences, awnings,
167 window air-conditioning units, gasoline pumps, window guards,



168 floor coverings, carports, store fixtures, aluminum and plastic
169 siding, tombstones and similar personal property.

170 (1) "Newspaper" means a periodical which:

171 (i) Is not published primarily for advertising
172 purposes and has not contained more than seventy-five percent
173 (75%) advertising in more than one-half (1/2) of its issues during
174 any consecutive twelve-month period excluding separate advertising
175 supplements inserted into but separately identifiable from any
176 regular issue or issues;

177 (ii) Has been established and published
178 continuously for at least twelve (12) months;

179 (iii) Is regularly issued at stated intervals no
180 less frequently than once a week, bears a date of issue, and is
181 numbered consecutively; provided, however, that publication on
182 legal holidays of this state or of the United States and on
183 Saturdays and Sundays shall not be required, and failure to
184 publish not more than two (2) regular issues in any calendar year
185 shall not exclude a periodical from this definition;

186 (iv) Is issued from a known office of publication,
187 which shall be the principal public business office of the
188 newspaper and need not be the place at which the periodical is
189 printed and a newspaper shall be deemed to be "published" at the
190 place where its known office of publication is located;

191 (v) Is formed of printed sheets; provided,
192 however, that a periodical that is reproduced by the stencil,



193 mimeograph or hectograph process shall not be considered to be a
194 "newspaper"; and

195 (vi) Is originated and published for the
196 dissemination of current news and intelligence of varied, broad
197 and general public interest, announcements and notices, opinions
198 as editorials on a regular or irregular basis, and advertising and
199 miscellaneous reading matter.

200 The term "newspaper" shall include periodicals which are
201 designed primarily for free circulation or for circulation at
202 nominal rates as well as those which are designed for circulation
203 at more than a nominal rate.

204 The term "newspaper" shall not include a publication or
205 periodical which is published, sponsored by, is directly supported
206 financially by, or is published to further the interests of, or is
207 directed to, or has a circulation restricted, in whole or in part,
208 to any particular sect, denomination, labor or fraternal
209 organization or other special group or class or citizens.

210 For purposes of this paragraph, a periodical designed
211 primarily for free circulation or circulation at nominal rates
212 shall not be considered to be a newspaper unless such periodical
213 has made an application for such status to the department in the
214 manner prescribed by the department and has provided to the
215 department documentation satisfactory to the department showing
216 that such periodical meets the requirements of the definition of
217 the term "newspaper." However, if such periodical has been



218 determined to be a newspaper under action taken by the department
219 on or before April 11, 1996, such periodical shall be considered
220 to be a newspaper without the necessity of applying for such
221 status. A determination by the Department of Revenue that a
222 publication is a newspaper shall be limited to the application of
223 this chapter and shall not establish that the publication is a
224 newspaper for any other purpose.

225 (m) "MPC" or "Material Purchase Certificate" means a
226 certificate for which a person that is liable for the tax levy
227 under Section 27-65-21 can apply and obtain from the commissioner,
228 and when issued, entitles the holder to purchase materials and
229 services that are to become a component part of a structure to be
230 erected or repaired with no tax due. Any person taxable under
231 Section 27-65-21 who obtains an MPC for a project and purchases
232 materials and services in this state that are to become a
233 component part of a structure being erected or repaired in the
234 project and at any time pays sales tax on these purchases may,
235 after obtaining the MPC for the project, take a credit against his
236 sales taxes for the sales tax paid on these purchases if proper
237 documentation exists to substantiate the payment of the sales tax
238 on the purchase of component materials and services. This credit
239 may also be allowed in any audit of the taxpayer. Any penalties
240 and interest owed by the taxpayer on the return or in the audit
241 where this credit is taken may be determined based on the sales
242 tax due after the taking of this credit.



243 **SECTION 2.** Section 27-65-7, Mississippi Code of 1972, is
244 brought forward as follows:

245 27-65-7. "Retailer" shall apply to a person making retail
246 sales through vending machines, by maintaining a store, or
247 operating as a transient vendor, or renting or leasing tangible
248 personal property. Retailer also includes persons who facilitate
249 the sale of services or tangible personal property that belongs to
250 a third party.

251 "Retail sales" shall mean and include all sales of tangible
252 personal property except those defined herein as wholesale and
253 those made to a wholesaler, jobber, manufacturer or custom
254 processor for resale or for further processing.

255 "Retail sale" shall include the value of any tangible
256 personal property manufactured or purchased at wholesale which is
257 withdrawn from the business or stock in trade and is used or
258 consumed within this state in the business or by the owner or by
259 any other person, whether or not in the regular course of business
260 or trade.

261 "Retail sale" shall also include a sale invoiced to a
262 retailer but delivered to another person who pays for the
263 merchandise upon taking possession.

264 "Retail sale" shall also include a sale made or facilitated
265 by a person regularly engaged in the sale or facilitation of sales
266 of services or tangible personal property. "Retail sale" does not
267 include a sale by a third-party food delivery service that



268 delivers food from an unrelated restaurant to a customer,
269 regardless of whether the customer orders and pays for the food
270 through the delivery service or whether the delivery service adds
271 fees or upcharges to the price of the food.

272 **SECTION 3.** Section 27-65-9, Mississippi Code of 1972, is
273 brought forward as follows:

274 27-65-9. (1) "Business" shall mean and include all
275 activities or acts engaged in (personal or corporate), for benefit
276 or advantage, either direct or indirect, and not exempting
277 subactivities in connection therewith. Each of such subactivities
278 shall be considered business engaged in, taxable in the class in
279 which it falls.

280 (2) "Business" shall include activities engaged in by exempt
281 organizations or political entities in competition with privately
282 owned business subject to the provisions of this chapter; however,
283 the term "business" shall not include the following activities:

284 (a) Sales of prepaid student meal plans by public or
285 private universities, colleges and community or junior colleges;

286 (b) Sales of prepared meals by any public or private
287 school to students in kindergarten through Grade 12; and

288 (c) Retail sales of prepared meals when:

289 (i) Sold on the campus of a public or private
290 university, college or community or junior college in this state
291 to a student enrolled at such university, college or community or
292 junior college; and



293 (ii) Payment for the sale is made through the use
294 of a prepaid declining balance account or similar instrument or
295 account issued to such student by the university, college or
296 community or junior college that may be used only to purchase
297 prepared meals.

298 (3) "Business" shall include the activity or activities of a
299 person in this state performing a service under contract or
300 agreement with another person when the service performed is
301 taxable under the provisions of this chapter.

302 (4) "Doing business" shall include any person owning
303 personal property located in this state under lease or rental
304 agreement or any person installing personal property within this
305 state.

306 (5) "Doing business" shall include any person represented in
307 this state by salesmen taking or soliciting orders to be filled
308 from points outside this state for subsequent delivery of the
309 merchandise in equipment owned or leased by the seller to
310 customers located in this state.

311 (6) "Doing business" shall include any person selling or
312 facilitating the sale of services or tangible personal property.

313 **SECTION 4.** Section 27-65-19, Mississippi Code of 1972, is
314 brought forward as follows:

315 27-65-19. (1) (a) (i) Except as otherwise provided in
316 this subsection, upon every person selling to consumers,
317 electricity, current, power, potable water, steam, coal, natural



318 gas, liquefied petroleum gas or other fuel, there is hereby
319 levied, assessed and shall be collected a tax equal to seven
320 percent (7%) of the gross income of the business. Provided, gross
321 income from sales to consumers of electricity, current, power,
322 natural gas, liquefied petroleum gas or other fuel for residential
323 heating, lighting or other residential noncommercial or
324 nonagricultural use, and sales of potable water for residential,
325 noncommercial or nonagricultural use shall be excluded from
326 taxable gross income of the business. Provided further, upon
327 every such seller using electricity, current, power, potable
328 water, steam, coal, natural gas, liquefied petroleum gas or other
329 fuel for nonindustrial purposes, there is hereby levied, assessed
330 and shall be collected a tax equal to seven percent (7%) of the
331 cost or value of the product or service used.

332 (ii) Gross income from sales to a church that is
333 exempt from federal income taxation under 26 USCS Section
334 501(c)(3) of electricity, current, power, natural gas, liquefied
335 petroleum gas or other fuel for heating, lighting or other use,
336 and sales of potable water to such a church shall be excluded from
337 taxable gross income of the business if the electricity, current,
338 power, natural gas, liquefied petroleum gas or potable water is
339 utilized on property that is primarily used for religious or
340 educational purposes.

341 (b) (i) There is hereby levied, assessed and shall be
342 collected a tax equal to one and one-half percent (1-1/2%) of the



343 gross income of the business from the sale of naturally occurring
344 carbon dioxide and anthropogenic carbon dioxide lawfully injected
345 into the earth for:

346 1. Use in an enhanced oil recovery project,
347 including, but not limited to, use for cycling, repressuring or
348 lifting of oil; or

349 2. Permanent sequestration in a geological
350 formation.

351 (ii) The one and one-half percent (1-1/2%) rate
352 provided for in this subsection shall apply to electricity,
353 current, power, steam, coal, natural gas, liquefied petroleum gas
354 or other fuel that is sold to a producer of oil and gas for use
355 directly in enhanced oil recovery using carbon dioxide and/or the
356 permanent sequestration of carbon dioxide in a geological
357 formation.

358 (c) The one and one-half percent (1-1/2%) rate provided
359 for in this subsection shall not apply to sales of fuel for
360 automobiles, trucks, truck-tractors, buses, farm tractors or
361 airplanes.

362 (d) (i) Upon every person providing services in this
363 state, there is hereby levied, assessed and shall be collected:

364 1. A tax equal to seven percent (7%) of the
365 gross income received from all charges for intrastate
366 telecommunications services.



367 2. A tax equal to seven percent (7%) of the
368 gross income received from all charges for interstate
369 telecommunications services.

370 3. A tax equal to seven percent (7%) of the
371 gross income received from all charges for international
372 telecommunications services.

373 4. A tax equal to seven percent (7%) of the
374 gross income received from all charges for ancillary services.

375 5. A tax equal to seven percent (7%) of the
376 gross income received from all charges for products delivered
377 electronically, including, but not limited to, software, music,
378 games, reading materials or ring tones.

379 (ii) A person, upon proof that he has paid a tax
380 in another state on an event described in subparagraph (i) of this
381 paragraph (d), shall be allowed a credit against the tax imposed
382 in this paragraph (d) on interstate telecommunications service
383 charges to the extent that the amount of such tax is properly due
384 and actually paid in such other state and to the extent that the
385 rate of sales tax imposed by and paid in such other state does not
386 exceed the rate of sales tax imposed by this paragraph (d).

387 (iii) Charges by one (1) telecommunications
388 provider to another telecommunications provider holding a permit
389 issued under Section 27-65-27 for services that are resold by such
390 other telecommunications provider, including, but not limited to,



391 access charges, shall not be subject to the tax levied pursuant to
392 this paragraph (d).

393 (iv) For purposes of this paragraph (d):

394 1. "Telecommunications service" means the
395 electronic transmission, conveyance or routing of voice, data,
396 audio, video or any other information or signals to a point, or
397 between points. The term "telecommunications service" includes
398 such transmission, conveyance or routing in which computer
399 processing applications are used to act on the form, code or
400 protocol of the content for purposes of transmission, conveyance
401 or routing without regard to whether such service is referred to
402 as voice over Internet protocol services or is classified by the
403 Federal Communications Commission as enhanced or value added. The
404 term "telecommunications service" shall not include:

405 a. Data processing and information
406 services that allow data to be generated, acquired, stored,
407 processed or retrieved and delivered by an electronic transmission
408 to a purchaser where such purchaser's primary purpose for the
409 underlying transaction is the processed data or information;

410 b. Installation or maintenance of wiring
411 or equipment on a customer's premises;

412 c. Tangible personal property;

413 d. Advertising, including, but not
414 limited to, directory advertising;



415 e. Billing and collection services
416 provided to third parties;
417 f. Internet access service;
418 g. Radio and television audio and video
419 programming services regardless of the medium, including the
420 furnishing of transmission, conveyance and routing of such
421 services by the programming service provider. Radio and
422 television audio and video programming services shall include, but
423 not be limited to, cable service as defined in 47 USCS 522(6) and
424 audio and video programming services delivered by commercial
425 mobile radio service providers, as defined in 47 CFR 20.3;
426 h. Ancillary services; or
427 i. Digital products delivered
428 electronically, including, but not limited to, software, music,
429 video, reading materials or ring tones.

430 2. "Ancillary services" means services that
431 are associated with or incidental to the provision of
432 telecommunications services, including, but not limited to,
433 detailed telecommunications billing, directory assistance,
434 vertical service and voice mail service.

435 a. "Conference bridging" means an
436 ancillary service that links two (2) or more participants of an
437 audio or video conference call and may include the provision of a
438 telephone number. Conference bridging does not include the
439 telecommunications services used to reach the conference bridge.



440 b. "Detailed telecommunications billing
441 service" means an ancillary service of separately stating
442 information pertaining to individual calls on a customer's billing
443 statement.

444 c. "Directory assistance" means an
445 ancillary service of providing telephone number information and/or
446 address information.

447 d. "Vertical service" means an ancillary
448 service that is offered in connection with one or more
449 telecommunications services, which offers advanced calling
450 features that allow customers to identify callers and to manage
451 multiple calls and call connections, including conference bridging
452 services.

453 e. "Voice mail service" means an
454 ancillary service that enables the customer to store, send or
455 receive recorded messages. Voice mail service does not include
456 any vertical services that the customer may be required to have in
457 order to utilize the voice mail service.

458 3. "Intrastate" means telecommunications
459 service that originates in one (1) United States state or United
460 States territory or possession, and terminates in the same United
461 States state or United States territory or possession.

462 4. "Interstate" means a telecommunications
463 service that originates in one (1) United States state or United



464 States territory or possession, and terminates in a different
465 United States state or United States territory or possession.

466 5. "International" means a telecommunications
467 service that originates or terminates in the United States and
468 terminates or originates outside the United States, respectively.

469 (v) For purposes of paragraph (d), the following
470 sourcing rules shall apply:

471 1. Except for the defined telecommunications
472 services in item 3 of this subparagraph, the sales of
473 telecommunications services sold on a call-by-call basis shall be
474 sourced to:

475 a. Each level of taxing jurisdiction
476 where the call originates and terminates in that jurisdiction, or

477 b. Each level of taxing jurisdiction
478 where the call either originates or terminates and in which the
479 service address is also located.

480 2. Except for the defined telecommunications
481 services in item 3 of this subparagraph, a sale of
482 telecommunications services sold on a basis other than a
483 call-by-call basis, is sourced to the customer's place of primary
484 use.

485 3. The sale of the following
486 telecommunications services shall be sourced to each level of
487 taxing jurisdiction as follows:



488 a. A sale of mobile telecommunications
489 services other than air-to-ground radiotelephone service and
490 prepaid calling service is sourced to the customer's place of
491 primary use as required by the Mobile Telecommunication Sourcing
492 Act.

493 A. A home service provider shall be
494 responsible for obtaining and maintaining the customer's place of
495 primary use. The home service provider shall be entitled to rely
496 on the applicable residential or business street address supplied
497 by such customer, if the home service provider's reliance is in
498 good faith; and the home service provider shall be held harmless
499 from liability for any additional taxes based on a different
500 determination of the place of primary use for taxes that are
501 customarily passed on to the customer as a separate itemized
502 charge. A home service provider shall be allowed to treat the
503 address used for purposes of the tax levied by this chapter for
504 any customer under a service contract in effect on August 1, 2002,
505 as that customer's place of primary use for the remaining term of
506 such service contract or agreement, excluding any extension or
507 renewal of such service contract or agreement. Month-to-month
508 services provided after the expiration of a contract shall be
509 treated as an extension or renewal of such contract or agreement.

510 B. If the commissioner determines
511 that the address used by a home service provider as a customer's
512 place of primary use does not meet the definition of the term



513 "place of primary use" as defined in subitem a.A. of this item 3,
514 the commissioner shall give binding notice to the home service
515 provider to change the place of primary use on a prospective basis
516 from the date of notice of determination; however, the customer
517 shall have the opportunity, prior to such notice of determination,
518 to demonstrate that such address satisfies the definition.

519 C. The department has the right to
520 collect any taxes due directly from the home service provider's
521 customer that has failed to provide an address that meets the
522 definition of the term "place of primary use" which resulted in a
523 failure of tax otherwise due being remitted.

524 b. A sale of postpaid calling service is
525 sourced to the origination point of the telecommunications signal
526 as first identified by either:

527 A. The seller's telecommunications
528 system; or

529 B. Information received by the
530 seller from its service provider, where the system used to
531 transport such signals is not that of the seller.

532 c. A sale of a prepaid calling service
533 or prepaid wireless calling service shall be subject to the tax
534 imposed by this paragraph if the sale takes place in this state.
535 If the customer physically purchases a prepaid calling service or
536 prepaid wireless calling service at the vendor's place of
537 business, the sale is deemed to take place at the vendor's place



538 of business. If the customer does not physically purchase the
539 service at the vendor's place of business, the sale of a prepaid
540 calling card or prepaid wireless calling card is deemed to take
541 place at the first of the following locations that applies to the
542 sale:

543 A. The customer's shipping address,
544 if the sale involves a shipment;

545 B. The customer's billing address;

546 C. Any other address of the
547 customer that is known by the vendor; or

548 D. The address of the vendor, or
549 alternatively, in the case of a prepaid wireless calling service,
550 the location associated with the mobile telephone number.

551 4. A sale of a private communication service
552 is sourced as follows:

553 a. Service for a separate charge related
554 to a customer channel termination point is sourced to each level
555 of jurisdiction in which such customer channel termination point
556 is located.

557 b. Service where all customer
558 termination points are located entirely within one (1)
559 jurisdiction or levels of jurisdiction is sourced in such
560 jurisdiction in which the customer channel termination points are
561 located.



562 c. Service for segments of a channel
563 between two (2) customer channel termination points located in
564 different jurisdictions and which segments of a channel are
565 separately charged is sourced fifty percent (50%) in each level of
566 jurisdiction in which the customer channel termination points are
567 located.

568 d. Service for segments of a channel
569 located in more than one (1) jurisdiction or levels of
570 jurisdiction and which segments are not separately billed is
571 sourced in each jurisdiction based on the percentage determined by
572 dividing the number of customer channel termination points in such
573 jurisdiction by the total number of customer channel termination
574 points.

575 5. A sale of ancillary services is sourced to
576 the customer's place of primary use.

577 (vi) For purposes of subparagraph (v) of this
578 paragraph (d):

579 1. "Air-to-ground radiotelephone service"
580 means a radio service, as that term is defined in 47 CFR 22.99, in
581 which common carriers are authorized to offer and provide radio
582 telecommunications service for hire to subscribers in aircraft.

583 2. "Call-by-call basis" means any method of
584 charging for telecommunications services where the price is
585 measured by individual calls.



586 3. "Communications channel" means a physical
587 or virtual path of communications over which signals are
588 transmitted between or among customer channel termination points.

589 4. "Customer" means the person or entity that
590 contracts with the seller of telecommunications services. If the
591 end user of telecommunications services is not the contracting
592 party, the end user of the telecommunications service is the
593 customer of the telecommunications service. Customer does not
594 include a reseller of telecommunications service or for mobile
595 telecommunications service of a serving carrier under an agreement
596 to serve the customer outside the home service provider's licensed
597 service area.

598 5. "Customer channel termination point" means
599 the location where the customer either inputs or receives the
600 communications.

601 6. "End user" means the person who utilizes
602 the telecommunications service. In the case of an entity, "end
603 user" means the individual who utilizes the service on behalf of
604 the entity.

605 7. "Home service provider" has the meaning
606 ascribed to such term in Section 124(5) of Public Law 106-252
607 (Mobile Telecommunications Sourcing Act).

608 8. "Mobile telecommunications service" has
609 the meaning ascribed to such term in Section 124(7) of Public Law
610 106-252 (Mobile Telecommunications Sourcing Act).



611 9. "Place of primary use" means the street
612 address representative of where the customer's use of the
613 telecommunications service primarily occurs, which must be the
614 residential street address or the primary business street address
615 of the customer. In the case of mobile telecommunications
616 services, the place of primary use must be within the licensed
617 service area of the home service provider.

618 10. "Post-paid calling service" means the
619 telecommunications service obtained by making a payment on a
620 call-by-call basis either through the use of a credit card or
621 payment mechanism such as a bank card, travel card, credit card or
622 debit card, or by charge made to a telephone number which is not
623 associated with the origination or termination of the
624 telecommunications service. A post-paid calling service includes
625 a telecommunications service, except a prepaid wireless calling
626 service that would be a prepaid calling service except it is not
627 exclusively a telecommunications service.

628 11. "Prepaid calling service" means the right
629 to access exclusively telecommunications services, which must be
630 paid for in advance and which enables the origination of calls
631 using an access number or authorization code, whether manually or
632 electronically dialed, and that is sold in predetermined units or
633 dollars of which the number declines with use in a known amount.

634 12. "Prepaid wireless calling service" means
635 a telecommunications service that provides the right to utilize



636 mobile wireless service as well as other nontelecommunications
637 services, including the download of digital products delivered
638 electronically, content and ancillary service, which must be paid
639 for in advance that is sold in predetermined units or dollars of
640 which the number declines with use in a known amount.

641 13. "Private communication service" means a
642 telecommunications service that entitles the customer to exclusive
643 or priority use of a communications channel or group of channels
644 between or among termination points, regardless of the manner in
645 which such channel or channels are connected, and includes
646 switching capacity, extension lines, stations and any other
647 associated services that are provided in connection with the use
648 of such channel or channels.

649 14. "Service address" means:

650 a. The location of the
651 telecommunications equipment to which a customer's call is charged
652 and from which the call originates or terminates, regardless of
653 where the call is billed or paid.

654 b. If the location in subitem a of this
655 item 14 is not known, the origination point of the signal of the
656 telecommunications services first identified by either the
657 seller's telecommunications system or in information received by
658 the seller from its service provider, where the system used to
659 transport such signals is not that of the seller.



660 c. If the location in subitems a and b
661 of this item 14 are not known, the location of the customer's
662 place of primary use.

663 (vii) 1. For purposes of this subparagraph (vii),
664 "bundled transaction" means a transaction that consists of
665 distinct and identifiable properties or services which are sold
666 for a single nonitemized price but which are treated differently
667 for tax purposes.

668 2. In the case of a bundled transaction that
669 includes telecommunications services, ancillary services, Internet
670 access, or audio or video programming services taxed under this
671 chapter in which the price of the bundled transaction is
672 attributable to properties or services that are taxable and
673 nontaxable, the portion of the price that is attributable to any
674 nontaxable property or service shall be subject to the tax unless
675 the provider can reasonably identify that portion from its books
676 and records kept in the regular course of business.

677 3. In the case of a bundled transaction that
678 includes telecommunications services, ancillary services, Internet
679 access, audio or video programming services subject to tax under
680 this chapter in which the price is attributable to properties or
681 services that are subject to the tax but the tax revenue from the
682 different properties or services are dedicated to different funds
683 or purposes, the provider shall allocate the price among the
684 properties or services:



685 a. By reasonably identifying the portion
686 of the price attributable to each of the properties and services
687 from its books and records kept in the regular course of business;
688 or

689 b. Based on a reasonable allocation
690 methodology approved by the department.

691 4. This subparagraph (vii) shall not create a
692 right of action for a customer to require that the provider or the
693 department, for purposes of determining the amount of tax
694 applicable to a bundled transaction, allocate the price to the
695 different portions of the transaction in order to minimize the
696 amount of tax charged to the customer. A customer shall not be
697 entitled to rely on the fact that a portion of the price is
698 attributable to properties or services not subject to tax unless
699 the provider elects, after receiving a written request from the
700 customer in the form required by the provider, to provide
701 verifiable data based upon the provider's books and records that
702 are kept in the regular course of business that reasonably
703 identifies the portion of the price attributable to the properties
704 or services not subject to the tax.

705 (2) Persons making sales to consumers of electricity,
706 current, power, natural gas, liquefied petroleum gas or other fuel
707 for residential heating, lighting or other residential
708 noncommercial or nonagricultural use or sales of potable water for
709 residential, noncommercial or nonagricultural use shall indicate



710 on each statement rendered to customers that such charges are
711 exempt from sales taxes.

712 (3) There is hereby levied, assessed and shall be paid on
713 transportation charges on shipments moving between points within
714 this state when paid directly by the consumer, a tax equal to the
715 rate applicable to the sale of the property being transported.
716 Such tax shall be reported and paid directly to the Department of
717 Revenue by the consumer.

718 **SECTION 5.** Section 27-65-23, Mississippi Code of 1972, is
719 brought forward as follows:

720 27-65-23. Upon every person engaging or continuing in any of
721 the following businesses or activities there is hereby levied,
722 assessed and shall be collected a tax equal to seven percent (7%)
723 of the gross income of the business, except as otherwise provided:

724 Air-conditioning installation or repairs;

725 Automobile, motorcycle, boat or any other vehicle
726 repairing or servicing;

727 Billiards, pool or domino parlors;

728 Bowling or tenpin alleys;

729 Burglar and fire alarm systems or services;

730 Car washing - automatic, self-service, or manual;

731 Computer software sales and services;

732 Cotton compresses or cotton warehouses;

733 Custom creosoting or treating, custom planing, custom
734 sawing;



735 Custom meat processing;
736 Electricians, electrical work, wiring, all repairs or
737 installation of electrical equipment;
738 Elevator or escalator installing, repairing or
739 servicing;
740 Film developing or photo finishing;
741 Foundries, machine or general repairing;
742 Furniture repairing or upholstering;
743 Grading, excavating, ditching, dredging or landscaping;
744 Hotels (as defined in Section 41-49-3), motels, tourist
745 courts or camps, trailer parks;
746 Insulating services or repairs;
747 Jewelry or watch repairing;
748 Laundering, cleaning, pressing or dyeing;
749 Marina services;
750 Mattress renovating;
751 Office and business machine repairing;
752 Parking garages and lots;
753 Plumbing or pipe fitting;
754 Public storage warehouses (There shall be no tax levied
755 on gross income of a public storage warehouse derived from the
756 temporary storage of tangible personal property in this state
757 pending shipping or mailing of the property to another state.);
758 Refrigerating equipment repairs;
759 Radio or television installing, repairing, or servicing;



760 Renting or leasing personal property used within this
761 state;

762 Services performed in connection with geophysical
763 surveying, exploring, developing, drilling, producing,
764 distributing, or testing of oil, gas, water and other mineral
765 resources;

766 Shoe repairing;

767 Storage lockers;

768 Telephone answering or paging services;

769 Termite or pest control services;

770 Tin and sheet metal shops;

771 TV cable systems, subscription TV services, and other
772 similar activities;

773 Vulcanizing, repairing or recapping of tires or tubes;

774 Welding; and

775 Woodworking or wood-turning shops.

776 Income from services taxed herein performed for electric
777 power associations in the ordinary and necessary operation of
778 their generating or distribution systems shall be taxed at the
779 rate of one percent (1%).

780 Income from services taxed herein performed on materials for
781 use in track or track structures to a railroad whose rates are
782 fixed by the Interstate Commerce Commission or the Mississippi
783 Public Service Commission shall be taxed at the rate of three
784 percent (3%).



785 Income from renting or leasing tangible personal property
786 used within this state shall be taxed at the same rates as sales
787 of the same property.

788 Persons doing business in this state who rent transportation
789 equipment with a situs within or without the state to common,
790 contract or private commercial carriers are taxed on that part of
791 the income derived from use within this state. If specific
792 accounting is impracticable, a formula may be used with approval
793 of the commissioner.

794 A lessor may deduct from the tax computed on the rental
795 income from tangible personal property a credit for sales or use
796 tax paid to this state at the time of purchase of the specific
797 personal property being leased or rented until such credit has
798 been exhausted.

799 Charges for custom processing and repairing services may be
800 excluded from gross taxable income when the property on which the
801 service was performed is delivered to the customer in another
802 state either by common carrier or in the seller's equipment.

803 When a taxpayer performs unitary services covered by this
804 section, which are performed both in intrastate and interstate
805 commerce, the commissioner is hereby invested with authority to
806 formulate in each particular case and to fix for such taxpayer in
807 each instance formulae of apportionment which will apportion to
808 this state, for taxation, that portion of the services which are
809 performed within the State of Mississippi.



810 **SECTION 6.** Section 27-65-101, Mississippi Code of 1972, is
811 brought forward as follows:

812 27-65-101. (1) The exemptions from the provisions of this
813 chapter which are of an industrial nature or which are more
814 properly classified as industrial exemptions than any other
815 exemption classification of this chapter shall be confined to
816 those persons or property exempted by this section or by the
817 provisions of the Constitution of the United States or the State
818 of Mississippi. No industrial exemption as now provided by any
819 other section except Section 57-3-33 shall be valid as against the
820 tax herein levied. Any subsequent industrial exemption from the
821 tax levied hereunder shall be provided by amendment to this
822 section. No exemption provided in this section shall apply to
823 taxes levied by Section 27-65-15 or 27-65-21.

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

826 (a) Sales of boxes, crates, cartons, cans, bottles and
827 other packaging materials to manufacturers and wholesalers for use
828 as containers or shipping materials to accompany goods sold by
829 said manufacturers or wholesalers where possession thereof will
830 pass to the customer at the time of sale of the goods contained
831 therein and sales to anyone of containers or shipping materials
832 for use in ships engaged in international commerce.

833 (b) Sales of raw materials, catalysts, processing
834 chemicals, welding gases or other industrial processing gases



835 (except natural gas) to a manufacturer for use directly in
836 manufacturing or processing a product for sale or rental or
837 repairing or reconditioning vessels or barges of fifty (50) tons
838 load displacement and over. For the purposes of this exemption,
839 electricity used directly in the electrolysis process in the
840 production of sodium chlorate shall be considered a raw material.
841 This exemption shall not apply to any property used as fuel except
842 to the extent that such fuel comprises by-products which have no
843 market value.

844 (c) The gross proceeds of sales of dry docks, offshore
845 drilling equipment for use in oil or natural gas exploration or
846 production, vessels or barges of fifty (50) tons load displacement
847 and over, when the vessels or barges are sold by the manufacturer
848 or builder thereof. In addition to other types of equipment,
849 offshore drilling equipment for use in oil or natural gas
850 exploration or production shall include aircraft used
851 predominately to transport passengers or property to or from
852 offshore oil or natural gas exploration or production platforms or
853 vessels, and engines, accessories and spare parts for such
854 aircraft.

855 (d) Sales to commercial fishermen of commercial fishing
856 boats of over five (5) tons load displacement and not more than
857 fifty (50) tons load displacement as registered with the United
858 States Coast Guard and licensed by the Mississippi Commission on
859 Marine Resources.



860 (e) The gross income from repairs to vessels and barges
861 engaged in foreign trade or interstate transportation.

862 (f) Sales of petroleum products to vessels or barges
863 for consumption in marine international commerce or interstate
864 transportation businesses.

865 (g) Sales and rentals of rail rolling stock (and
866 component parts thereof) for ultimate use in interstate commerce
867 and gross income from services with respect to manufacturing,
868 repairing, cleaning, altering, reconditioning or improving such
869 rail rolling stock (and component parts thereof).

870 (h) Sales of raw materials, catalysts, processing
871 chemicals, welding gases or other industrial processing gases
872 (except natural gas) used or consumed directly in manufacturing,
873 repairing, cleaning, altering, reconditioning or improving such
874 rail rolling stock (and component parts thereof). This exemption
875 shall not apply to any property used as fuel.

876 (i) Sales of machinery or tools or repair parts
877 therefor or replacements thereof, fuel or supplies used directly
878 in manufacturing, converting or repairing ships, vessels or barges
879 of three thousand (3,000) tons load displacement and over, but not
880 to include office and plant supplies or other equipment not
881 directly used on the ship, vessel or barge being built, converted
882 or repaired. For purposes of this exemption, "ships, vessels or
883 barges" shall not include floating structures described in Section
884 27-65-18.



885 (j) Sales of tangible personal property to persons
886 operating ships in international commerce for use or consumption
887 on board such ships. This exemption shall be limited to cases in
888 which procedures satisfactory to the commissioner, ensuring
889 against use in this state other than on such ships, are
890 established.

891 (k) Sales of materials used in the construction of a
892 building, or any addition or improvement thereon, and sales of any
893 machinery and equipment not later than three (3) months after the
894 completion of construction of the building, or any addition
895 thereon, to be used therein, to qualified businesses, as defined
896 in Section 57-51-5, which are located in a county or portion
897 thereof designated as an enterprise zone pursuant to Sections
898 57-51-1 through 57-51-15.

899 (l) Sales of materials used in the construction of a
900 building, or any addition or improvement thereon, and sales of any
901 machinery and equipment not later than three (3) months after the
902 completion of construction of the building, or any addition
903 thereon, to be used therein, to qualified businesses, as defined
904 in Section 57-54-5.

905 (m) Income from storage and handling of perishable
906 goods by a public storage warehouse.

907 (n) The value of natural gas lawfully injected into the
908 earth for cycling, repressuring or lifting of oil, or lawfully
909 vented or flared in connection with the production of oil;



910 however, if any gas so injected into the earth is sold for such
911 purposes, then the gas so sold shall not be exempt.

912 (o) The gross collections from self-service commercial
913 laundering, drying, cleaning and pressing equipment.

914 (p) Sales of materials used in the construction of a
915 building, or any addition or improvement thereon, and sales of any
916 machinery and equipment not later than three (3) months after the
917 completion of construction of the building, or any addition
918 thereon, to be used therein, to qualified companies, certified as
919 such by the Mississippi Development Authority under Section
920 57-53-1.

921 (q) Sales of component materials used in the
922 construction of a building, or any addition or improvement
923 thereon, sales of machinery and equipment to be used therein, and
924 sales of manufacturing or processing machinery and equipment which
925 is permanently attached to the ground or to a permanent foundation
926 and which is not by its nature intended to be housed within a
927 building structure, not later than three (3) months after the
928 initial start-up date, to permanent business enterprises engaging
929 in manufacturing or processing in Tier Three areas (as such term
930 is defined in Section 57-73-21), which businesses are certified by
931 the Department of Revenue as being eligible for the exemption
932 granted in this paragraph (q).

933 (r) (i) Sales of component materials used in the
934 construction of a building, or any addition or improvement



935 thereon, and sales of any machinery and equipment not later than
936 three (3) months after the completion of the building, addition or
937 improvement thereon, to be used therein, for any company
938 establishing or transferring its national or regional headquarters
939 from within or outside the State of Mississippi and creating a
940 minimum of twenty (20) jobs at the new headquarters in this state.
941 The Department of Revenue shall establish criteria and prescribe
942 procedures to determine if a company qualifies as a national or
943 regional headquarters for the purpose of receiving the exemption
944 provided in this subparagraph (i).

945 (ii) Sales of component materials used in the
946 construction of a building, or any addition or improvement
947 thereon, and sales of any machinery and equipment not later than
948 three (3) months after the completion of the building, addition or
949 improvement thereon, to be used therein, for any company expanding
950 or making additions after January 1, 2013, to its national or
951 regional headquarters within the State of Mississippi and creating
952 a minimum of twenty (20) new jobs at the headquarters as a result
953 of the expansion or additions. The Department of Revenue shall
954 establish criteria and prescribe procedures to determine if a
955 company qualifies as a national or regional headquarters for the
956 purpose of receiving the exemption provided in this subparagraph
957 (ii).

958 (s) The gross proceeds from the sale of semitrailers,
959 trailers, boats, travel trailers, motorcycles, all-terrain cycles



960 and rotary-wing aircraft if exported from this state within
961 forty-eight (48) hours and registered and first used in another
962 state.

963 (t) Gross income from the storage and handling of
964 natural gas in underground salt domes and in other underground
965 reservoirs, caverns, structures and formations suitable for such
966 storage.

967 (u) Sales of machinery and equipment to nonprofit
968 organizations if the organization:

969 (i) Is tax exempt pursuant to Section 501(c)(4) of
970 the Internal Revenue Code of 1986, as amended;

971 (ii) Assists in the implementation of the
972 contingency plan or area contingency plan, and which is created in
973 response to the requirements of Title IV, Subtitle B of the Oil
974 Pollution Act of 1990, Public Law 101-380; and

975 (iii) Engages primarily in programs to contain,
976 clean up and otherwise mitigate spills of oil or other substances
977 occurring in the United States coastal and tidal waters.

978 For purposes of this exemption, "machinery and equipment"
979 means any ocean-going vessels, barges, booms, skimmers and other
980 capital equipment used primarily in the operations of nonprofit
981 organizations referred to herein.

982 (v) Sales or leases of materials and equipment to
983 approved business enterprises as provided under the Growth and
984 Prosperity Act.



985 (w) From and after July 1, 2001, sales of pollution
986 control equipment to manufacturers or custom processors for
987 industrial use. For the purposes of this exemption, "pollution
988 control equipment" means equipment, devices, machinery or systems
989 used or acquired to prevent, control, monitor or reduce air, water
990 or groundwater pollution, or solid or hazardous waste as required
991 by federal or state law or regulation.

992 (x) Sales or leases to a manufacturer of motor vehicles
993 or powertrain components operating a project that has been
994 certified by the Mississippi Major Economic Impact Authority as a
995 project as defined in Section 57-75-5(f)(iv)1, Section
996 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) of machinery and
997 equipment; special tooling such as dies, molds, jigs and similar
998 items treated as special tooling for federal income tax purposes;
999 or repair parts therefor or replacements thereof; repair services
1000 thereon; fuel, supplies, electricity, coal and natural gas used
1001 directly in the manufacture of motor vehicles or motor vehicle
1002 parts or used to provide climate control for manufacturing areas.

1003 (y) Sales or leases of component materials, machinery
1004 and equipment used in the construction of a building, or any
1005 addition or improvement thereon to an enterprise operating a
1006 project that has been certified by the Mississippi Major Economic
1007 Impact Authority as a project as defined in Section
1008 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi), Section 57-75-5(f)(xxii)



1009 or Section 57-75-5(f) (xxviii) and any other sales or leases
1010 required to establish or operate such project.

1011 (z) Sales of component materials and equipment to a
1012 business enterprise as provided under Section 57-64-33.

1013 (aa) The gross income from the stripping and painting
1014 of commercial aircraft engaged in foreign or interstate
1015 transportation business.

1016 (bb) [Repealed]

1017 (cc) Sales or leases to an enterprise owning or
1018 operating a project that has been designated by the Mississippi
1019 Major Economic Impact Authority as a project as defined in Section
1020 57-75-5(f) (xviii) of machinery and equipment; special tooling such
1021 as dies, molds, jigs and similar items treated as special tooling
1022 for federal income tax purposes; or repair parts therefor or
1023 replacements thereof; repair services thereon; fuel, supplies,
1024 electricity, coal and natural gas used directly in the
1025 manufacturing/production operations of the project or used to
1026 provide climate control for manufacturing/production areas.

1027 (dd) Sales or leases of component materials, machinery
1028 and equipment used in the construction of a building, or any
1029 addition or improvement thereon to an enterprise owning or
1030 operating a project that has been designated by the Mississippi
1031 Major Economic Impact Authority as a project as defined in Section
1032 57-75-5(f) (xviii) and any other sales or leases required to
1033 establish or operate such project.



1034 (ee) Sales of parts used in the repair and servicing of
1035 aircraft not registered in Mississippi engaged exclusively in the
1036 business of foreign or interstate transportation to businesses
1037 engaged in aircraft repair and maintenance.

1038 (ff) Sales of component materials used in the
1039 construction of a facility, or any addition or improvement
1040 thereon, and sales or leases of machinery and equipment not later
1041 than three (3) months after the completion of construction of the
1042 facility, or any addition or improvement thereto, to be used in
1043 the building or any addition or improvement thereto, to a
1044 permanent business enterprise operating a data/information
1045 enterprise in Tier Three areas (as such areas are designated in
1046 accordance with Section 57-73-21), meeting minimum criteria
1047 established by the Mississippi Development Authority.

1048 (gg) Sales of component materials used in the
1049 construction of a facility, or any addition or improvement
1050 thereto, and sales of machinery and equipment not later than three
1051 (3) months after the completion of construction of the facility,
1052 or any addition or improvement thereto, to be used in the facility
1053 or any addition or improvement thereto, to technology intensive
1054 enterprises for industrial purposes in Tier Three areas (as such
1055 areas are designated in accordance with Section 57-73-21), as
1056 certified by the Department of Revenue. For purposes of this
1057 paragraph, an enterprise must meet the criteria provided for in



1058 Section 27-65-17(1) (f) in order to be considered a technology
1059 intensive enterprise.

1060 (hh) Sales of component materials used in the
1061 replacement, reconstruction or repair of a building or facility
1062 that has been destroyed or sustained extensive damage as a result
1063 of a disaster declared by the Governor, sales of machinery and
1064 equipment to be used therein to replace machinery or equipment
1065 damaged or destroyed as a result of such disaster, including, but
1066 not limited to, manufacturing or processing machinery and
1067 equipment which is permanently attached to the ground or to a
1068 permanent foundation and which is not by its nature intended to be
1069 housed within a building structure, to enterprises or companies
1070 that were eligible for the exemptions authorized in paragraph (q),
1071 (r), (ff) or (gg) of this subsection during initial construction
1072 of the building that was destroyed or damaged, which enterprises
1073 or companies are certified by the Department of Revenue as being
1074 eligible for the exemption granted in this paragraph.

1075 (ii) Sales of software or software services transmitted
1076 by the Internet to a destination outside the State of Mississippi
1077 where the first use of such software or software services by the
1078 purchaser occurs outside the State of Mississippi.

1079 (jj) Gross income of public storage warehouses derived
1080 from the temporary storage of raw materials that are to be used in
1081 an eligible facility as defined in Section 27-7-22.35.



1082 (kk) Sales of component building materials and
1083 equipment for initial construction of facilities or expansion of
1084 facilities as authorized under Sections 57-113-1 through 57-113-7
1085 and Sections 57-113-21 through 57-113-27.

1086 (ll) Sales and leases of machinery and equipment
1087 acquired in the initial construction to establish facilities as
1088 authorized in Sections 57-113-1 through 57-113-7.

1089 (mm) Sales and leases of replacement hardware, software
1090 or other necessary technology to operate a data center as
1091 authorized under Sections 57-113-21 through 57-113-27.

1092 (nn) Sales of component materials used in the
1093 construction of a building, or any addition or improvement
1094 thereon, and sales or leases of machinery and equipment not later
1095 than three (3) months after the completion of the construction of
1096 the facility, to be used in the facility, to permanent business
1097 enterprises operating a facility producing renewable crude oil
1098 from biomass harvested or produced, in whole or in part, in
1099 Mississippi, which businesses meet minimum criteria established by
1100 the Mississippi Development Authority. As used in this paragraph,
1101 the term "biomass" shall have the meaning ascribed to such term in
1102 Section 57-113-1.

1103 (oo) Sales of supplies, equipment and other personal
1104 property to an organization that is exempt from taxation under
1105 Section 501(c) (3) of the Internal Revenue Code and is the host
1106 organization coordinating a professional golf tournament played or



1107 to be played in this state and the supplies, equipment or other
1108 personal property will be used for purposes related to the golf
1109 tournament and related activities.

1110 (pp) Sales of materials used in the construction of a
1111 health care industry facility, as defined in Section 57-117-3, or
1112 any addition or improvement thereon, and sales of any machinery
1113 and equipment not later than three (3) months after the completion
1114 of construction of the facility, or any addition thereon, to be
1115 used therein, to qualified businesses, as defined in Section
1116 57-117-3. This paragraph shall be repealed from and after July 1,
1117 2022.

1118 (qq) Sales or leases to a manufacturer of automotive
1119 parts operating a project that has been certified by the
1120 Mississippi Major Economic Impact Authority as a project as
1121 defined in Section 57-75-5(f) (xxviii) of machinery and equipment;
1122 or repair parts therefor or replacements thereof; repair services
1123 thereon; fuel, supplies, electricity, coal, nitrogen and natural
1124 gas used directly in the manufacture of automotive parts or used
1125 to provide climate control for manufacturing areas.

1126 (rr) Gross collections derived from guided tours on any
1127 navigable waters of this state, which include providing
1128 accommodations, guide services and/or related equipment operated
1129 by or under the direction of the person providing the tour, for
1130 the purposes of outdoor tourism. The exemption provided in this



1131 paragraph (rr) does not apply to the sale of tangible personal
1132 property by a person providing such tours.

1133 (ss) Retail sales of truck-tractors and semitrailers
1134 used in interstate commerce and registered under the International
1135 Registration Plan (IRP) or any similar reciprocity agreement or
1136 compact relating to the proportional registration of commercial
1137 vehicles entered into as provided for in Section 27-19-143.

1138 (tt) Sales exempt under the Facilitating Business Rapid
1139 Response to State Declared Disasters Act of 2015 (Sections
1140 27-113-1 through 27-113-9).

1141 (uu) Sales or leases to an enterprise and its
1142 affiliates operating a project that has been certified by the
1143 Mississippi Major Economic Impact Authority as a project as
1144 defined in Section 57-75-5(f)(xxix) of:

1145 (i) All personal property and fixtures, including
1146 without limitation, sales or leases to the enterprise and its
1147 affiliates of:

1148 1. Manufacturing machinery and equipment;

1149 2. Special tooling such as dies, molds, jigs

1150 and similar items treated as special tooling for federal income

1151 tax purposes;

1152 3. Component building materials, machinery

1153 and equipment used in the construction of buildings, and any other

1154 additions or improvements to the project site for the project;



1155 4. Nonmanufacturing furniture, fixtures and
1156 equipment (inclusive of all communications, computer, server,
1157 software and other hardware equipment); and

1158 5. Fuel, supplies (other than
1159 nonmanufacturing consumable supplies and water), electricity,
1160 nitrogen gas and natural gas used directly in the
1161 manufacturing/production operations of such project or used to
1162 provide climate control for manufacturing/production areas of such
1163 project;

1164 (ii) All replacements of, repair parts for or
1165 services to repair items described in subparagraph (i)1, 2 and 3
1166 of this paragraph; and

1167 (iii) All services taxable pursuant to Section
1168 27-65-23 required to establish, support, operate, repair and/or
1169 maintain such project.

1170 (vv) Sales or leases to an enterprise operating a
1171 project that has been certified by the Mississippi Major Economic
1172 Impact Authority as a project as defined in Section
1173 57-75-5(f) (xxx) of:

1174 (i) Purchases required to establish and operate
1175 the project, including, but not limited to, sales of component
1176 building materials, machinery and equipment required to establish
1177 the project facility and any additions or improvements thereon;
1178 and



1179 (ii) Machinery, special tools (such as dies,
1180 molds, and jigs) or repair parts thereof, or replacements and
1181 lease thereof, repair services thereon, fuel, supplies and
1182 electricity, coal and natural gas used in the manufacturing
1183 process and purchased by the enterprise owning or operating the
1184 project for the benefit of the project.

1185 (wv) Sales of component materials used in the
1186 construction of a building, or any expansion or improvement
1187 thereon, sales of machinery and/or equipment to be used therein,
1188 and sales of processing machinery and equipment which is
1189 permanently attached to the ground or to a permanent foundation
1190 which is not by its nature intended to be housed in a building
1191 structure, no later than three (3) months after initial startup,
1192 expansion or improvement of a permanent enterprise solely engaged
1193 in the conversion of natural sand into proppants used in oil and
1194 gas exploration and development with at least ninety-five percent
1195 (95%) of such proppants used in the production of oil and/or gas
1196 from horizontally drilled wells and/or horizontally drilled
1197 recompletion wells as defined in Sections 27-25-501 and 27-25-701.

1198 (2) Sales of component materials used in the construction of
1199 a building, or any addition or improvement thereon, sales of
1200 machinery and equipment to be used therein, and sales of
1201 manufacturing or processing machinery and equipment which is
1202 permanently attached to the ground or to a permanent foundation
1203 and which is not by its nature intended to be housed within a



1204 building structure, not later than three (3) months after the
1205 initial start-up date, to permanent business enterprises engaging
1206 in manufacturing or processing in Tier Two areas and Tier One
1207 areas (as such areas are designated in accordance with Section
1208 57-73-21), which businesses are certified by the Department of
1209 Revenue as being eligible for the exemption granted in this
1210 subsection, shall be exempt from one-half (1/2) of the taxes
1211 imposed on such transactions under this chapter.

1212 (3) Sales of component materials used in the construction of
1213 a facility, or any addition or improvement thereon, and sales or
1214 leases of machinery and equipment not later than three (3) months
1215 after the completion of construction of the facility, or any
1216 addition or improvement thereto, to be used in the building or any
1217 addition or improvement thereto, to a permanent business
1218 enterprise operating a data/information enterprise in Tier Two
1219 areas and Tier One areas (as such areas are designated in
1220 accordance with Section 57-73-21), which businesses meet minimum
1221 criteria established by the Mississippi Development Authority,
1222 shall be exempt from one-half (1/2) of the taxes imposed on such
1223 transaction under this chapter.

1224 (4) Sales of component materials used in the construction of
1225 a facility, or any addition or improvement thereto, and sales of
1226 machinery and equipment not later than three (3) months after the
1227 completion of construction of the facility, or any addition or
1228 improvement thereto, to be used in the building or any addition or



1229 improvement thereto, to technology intensive enterprises for
1230 industrial purposes in Tier Two areas and Tier One areas (as such
1231 areas are designated in accordance with Section 57-73-21), which
1232 businesses are certified by the Department of Revenue as being
1233 eligible for the exemption granted in this subsection, shall be
1234 exempt from one-half (1/2) of the taxes imposed on such
1235 transactions under this chapter. For purposes of this subsection,
1236 an enterprise must meet the criteria provided for in Section
1237 27-65-17(1)(f) in order to be considered a technology intensive
1238 enterprise.

1239 (5) (a) For purposes of this subsection:

1240 (i) "Telecommunications enterprises" shall have
1241 the meaning ascribed to such term in Section 57-73-21;

1242 (ii) "Tier One areas" mean counties designated as
1243 Tier One areas pursuant to Section 57-73-21;

1244 (iii) "Tier Two areas" mean counties designated as
1245 Tier Two areas pursuant to Section 57-73-21;

1246 (iv) "Tier Three areas" mean counties designated
1247 as Tier Three areas pursuant to Section 57-73-21; and

1248 (v) "Equipment used in the deployment of broadband
1249 technologies" means any equipment capable of being used for or in
1250 connection with the transmission of information at a rate, prior
1251 to taking into account the effects of any signal degradation, that
1252 is not less than three hundred eighty-four (384) kilobits per
1253 second in at least one (1) direction, including, but not limited



1254 to, asynchronous transfer mode switches, digital subscriber line
1255 access multiplexers, routers, servers, multiplexers, fiber optics
1256 and related equipment.

1257 (b) Sales of equipment to telecommunications
1258 enterprises after June 30, 2003, and before July 1, 2025, that is
1259 installed in Tier One areas and used in the deployment of
1260 broadband technologies shall be exempt from one-half (1/2) of the
1261 taxes imposed on such transactions under this chapter.

1262 (c) Sales of equipment to telecommunications
1263 enterprises after June 30, 2003, and before July 1, 2025, that is
1264 installed in Tier Two and Tier Three areas and used in the
1265 deployment of broadband technologies shall be exempt from the
1266 taxes imposed on such transactions under this chapter.

1267 (6) Sales of component materials used in the replacement,
1268 reconstruction or repair of a building that has been destroyed or
1269 sustained extensive damage as a result of a disaster declared by
1270 the Governor, sales of machinery and equipment to be used therein
1271 to replace machinery or equipment damaged or destroyed as a result
1272 of such disaster, including, but not limited to, manufacturing or
1273 processing machinery and equipment which is permanently attached
1274 to the ground or to a permanent foundation and which is not by its
1275 nature intended to be housed within a building structure, to
1276 enterprises that were eligible for the partial exemptions provided
1277 for in subsections (2), (3) and (4) of this section during initial
1278 construction of the building that was destroyed or damaged, which



1279 enterprises are certified by the Department of Revenue as being
1280 eligible for the partial exemption granted in this subsection,
1281 shall be exempt from one-half (1/2) of the taxes imposed on such
1282 transactions under this chapter.

1283 **SECTION 7.** Section 27-67-3, Mississippi Code of 1972, is
1284 brought forward as follows:

1285 27-67-3. Whenever used in this article, the words, phrases
1286 and terms shall have the meaning ascribed to them as follows:

1287 (a) "Tax Commission" or "department" means the
1288 Department of Revenue of the State of Mississippi.

1289 (b) "Commissioner" means the Commissioner of Revenue of
1290 the Department of Revenue.

1291 (c) "Person" means any individual, firm, partnership,
1292 joint venture, association, corporation, estate, trust, receiver,
1293 syndicate or any other group or combination acting as a unit and
1294 includes the plural as well as the singular in number. "Person"
1295 shall also include husband or wife, or both, where joint benefits
1296 are derived from the operation of a business taxed hereunder or
1297 where joint benefits are derived from the use of property taxed
1298 hereunder.

1299 (d) "Taxpayer" means any person liable for the payment
1300 of any tax hereunder, or liable for the collection and payment of
1301 the tax.

1302 (e) "Sale" or "purchase" means the exchange of
1303 properties for money or other consideration, and the barter of



1304 properties or products. Every closed transaction by which title
1305 to, or possession of, tangible personal property or specified
1306 digital products passes shall constitute a taxable event. A
1307 transaction whereby the possession of property or products is
1308 transferred but the seller retains title as security for payment
1309 of the selling price shall be deemed a sale.

1310 (f) "Purchase price" or "sales price" means the total
1311 amount for which tangible personal property or specified digital
1312 product is purchased or sold, valued in money, including
1313 installation and service charges, and freight charges to the point
1314 of use within this state, without any deduction for cost of
1315 property or products sold, expenses or losses, or taxes of any
1316 kind except those exempt by the sales tax law. "Purchase price"
1317 or "sales price" shall not include cash discounts allowed and
1318 taken or merchandise returned by customers when the total sales
1319 price is refunded either in cash or by credit, and shall not
1320 include amounts allowed for a trade-in of similar property or
1321 products. "Purchase price" or "sales price" does not include
1322 finance charges, carrying charges or any other addition to the
1323 selling price as a result of deferred payments by the purchaser.

1324 (g) "Lease" or "rent" means any agreement entered into
1325 for a consideration that transfers possession or control of
1326 tangible personal property or specified digital products to a
1327 person for use within this state.



1328 (h) "Value" means the estimated or assessed monetary
1329 worth of a thing or property. The value of property or products
1330 transferred into this state for sales promotion or advertising
1331 shall be an amount not less than the cost paid by the transferor
1332 or donor. The value of property or products which have been used
1333 in another state shall be determined by its cost less straight
1334 line depreciation provided that value shall never be less than
1335 twenty percent (20%) of the cost or other method acceptable to the
1336 commissioner. On property or products imported by the
1337 manufacturer thereof for rental or lease within this state, value
1338 shall be the manufactured cost of the property and freight to the
1339 place of use in Mississippi.

1340 (i) "Tangible personal property" means personal
1341 property perceptible to the human senses or by chemical analysis,
1342 as opposed to real property or intangibles. "Tangible personal
1343 property" shall include printed, mimeographed, multigraphed
1344 matter, or material reproduced in any other manner, and books,
1345 catalogs, manuals, publications or similar documents covering the
1346 services of collecting, compiling or analyzing information of any
1347 kind or nature. However, reports representing the work of persons
1348 such as lawyers, accountants, engineers and similar professionals
1349 shall not be included. "Tangible personal property" shall also
1350 include tangible advertising or sales promotion materials such as,
1351 but not limited to, displays, brochures, signs, catalogs, price
1352 lists, point of sale advertising materials and technical manuals.



1353 Tangible personal property shall also include computer software
1354 programs.

1355 (j) "Person doing business in this state," "person
1356 maintaining a place of business within this state," or any similar
1357 term means any person having within this state an office, a
1358 distribution house, a salesroom or house, a warehouse, or any
1359 other place of business, or owning personal property located in
1360 this state used by another person, or installing personal property
1361 in this state. This definition also includes any person selling
1362 or taking orders for any tangible personal property, either
1363 personally, by mail or through an employee representative,
1364 salesman, commission agent, canvasser, solicitor or independent
1365 contractor or by any other means from within the state. "Person
1366 doing business in this state" also includes any marketplace
1367 facilitator, marketplace seller, or remote seller with sales that
1368 exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in any
1369 consecutive twelve-month period. A sale made through a
1370 marketplace facilitator is a sale of the marketplace facilitator
1371 and not the sale of a marketplace seller for purposes of
1372 determining whether a person exceeds Two Hundred Fifty Thousand
1373 Dollars (\$250,000.00) in sales.

1374 Any person doing business under the terms of this article by
1375 reason of coming under any one or more of the qualifying
1376 provisions listed above shall be considered as doing business on
1377 all transactions involving sales to persons within this state.



1378 (k) "Use" or "consumption" means the first use or
1379 intended use within this state of tangible personal property or
1380 specified digital product and shall include rental or loan by
1381 owners or use by lessees or other persons receiving benefits from
1382 use of the property or product. "Use" or "consumption" shall
1383 include the benefit realized or to be realized by persons
1384 importing or causing to be imported into this state tangible
1385 advertising or sales promotion materials.

1386 (l) "Storage" means keeping tangible personal property
1387 or specified digital product in this state for subsequent use or
1388 consumption in this state.

1389 (m) "Specified digital products" shall have the meaning
1390 ascribed to such term in Section 27-65-26.

1391 (n) "Marketplace facilitator" means any person who
1392 facilitates a retail sale by a seller by:

1393 (i) Listing or advertising for sale by the
1394 retailer in any forum, tangible personal property, services or
1395 digital goods that are subject to tax under this chapter; and

1396 (ii) Either directly or indirectly through
1397 agreements or arrangements with third parties collecting payment
1398 from the customer and transmitting that payment to the retailer
1399 regardless of whether the marketplace provider receives
1400 compensation or other consideration in exchange for its service.

1401 (o) "Marketplace seller" means a seller that makes
1402 sales through any physical or electronic marketplace owned,



1403 operated, or controlled by a marketplace facilitator, even if such
1404 seller would not have been required to collect and remit sales tax
1405 had the sale not been made through such marketplace.

1406 (p) "Remote seller" means a person, other than a
1407 marketplace facilitator, that does not maintain a place of
1408 business in this state and that through a forum sells tangible
1409 personal property, taxable services or specified digital products,
1410 the sale or use of which is subject to the tax imposed by this
1411 chapter.

1412 **SECTION 8.** Section 27-67-5, Mississippi Code of 1972, is
1413 brought forward as follows:

1414 27-67-5. There is hereby levied, assessed and shall be
1415 collected from every person a tax for the privilege of using,
1416 storing or consuming, within this state, any tangible personal
1417 property or specified digital product possession of which is
1418 acquired in any manner.

1419 (a) The use tax hereby imposed and levied shall be
1420 collected at the same rates as imposed under Section 27-65-20, and
1421 Sections 27-65-17, 27-65-18, 27-65-19, 27-65-24, 27-65-25 and
1422 27-65-26 computed on the purchase or sales price, or value, as
1423 defined in this article.

1424 (b) It shall be the duty of the tax collectors of the
1425 several counties, or the commissioner, as the case may be, to
1426 collect, remit and account for the tax on the use of all vehicles
1427 licensed or registered by the State of Mississippi for the first



1428 time, except when the Mississippi use tax was collected by an
1429 authorized out-of-state dealer at the time of purchase, or when
1430 the use thereof was exempt by Section 27-67-7. The tax collector
1431 or the commissioner shall give to the person registering the
1432 vehicle a receipt in a form prescribed and furnished by the
1433 Department of Revenue for the amount of tax collected.

1434 The tax collector or the commissioner is expressly prohibited
1435 from issuing a license tag to any applicant without collecting the
1436 tax levied by this article, unless positive proof is filed,
1437 together with the application for the license tag, that the
1438 Mississippi tax has been paid, or that the sale was exempt by
1439 Section 27-67-7.

1440 Persons not engaging and continuing in business so as to be
1441 registered for payment of sales and/or use tax may pay use tax due
1442 on the first use of boats, airplanes, equipment or other tangible
1443 personal property and specified digital products to county tax
1444 collectors who are hereby authorized to accept such payments on
1445 behalf of the commissioner. Receipts for all such payments shall
1446 be given to taxpayers in a form prescribed and furnished by the
1447 Department of Revenue.

1448 County tax collectors and the commissioner shall be liable
1449 for the tax they are required hereby to collect, and taxes which
1450 are in fact collected under authority of this section; and failure
1451 to properly collect or maintain proper records shall not relieve
1452 them of liability for payment to the commissioner. Deficiencies



1453 in collection or payment shall be assessed against the tax
1454 collector or the commissioner in the same manner and subject to
1455 the same penalties and provisions for appeal as are deficiencies
1456 assessed against taxpayers.

1457 A dealer authorized to collect and remit the tax to the
1458 Department of Revenue shall give to the purchaser a receipt for
1459 the payment of the tax, in a form prescribed and furnished by the
1460 commissioner, which shall serve as proof of payment to the tax
1461 collector of the county in which the license is to be issued.

1462 Each tax collector of the several counties shall, on or
1463 before the twentieth day of each month, file a report with and pay
1464 to the commissioner all funds collected under the provisions of
1465 this article, less a commission of five percent (5%) which shall
1466 be retained by the tax collector as a commission for collecting
1467 such tax and be deposited in the county general fund. The report
1468 required to be filed shall cover all collections made during the
1469 calendar month next preceding the date on which the report is due
1470 and filed.

1471 Any error in the report and remittance to the commissioner
1472 may be adjusted on a subsequent report. If the error was in the
1473 collection by the tax collector, it shall be adjusted through the
1474 tax collector with the taxpayer before credit is allowed by the
1475 commissioner.

1476 All information relating to the collection of use tax by tax
1477 collectors and such records as the commissioner may require shall



1478 be preserved in the tax collector's office for a period of three
1479 (3) years for audit by the commissioner.

1480 **SECTION 9.** Section 27-67-7, Mississippi Code of 1972, is
1481 brought forward as follows:

1482 27-67-7. The tax levied by this article shall not be
1483 collected in the following instances:

1484 (a) On the use, storage or consumption of any tangible
1485 personal property or specified digital products if the sale
1486 thereof has already been included in the measure of this tax or
1487 the tax imposed by Section 27-65-20 or Section 27-65-17, 27-65-19,
1488 27-65-25 or 27-65-26, or has already been included in the measure
1489 of a sales tax imposed by another state in which the property or
1490 products were sold or use tax imposed by some other state in which
1491 the property was used. If the rate of sales or use tax paid
1492 another state by the person using the property or products in
1493 Mississippi is not equal to or greater than the rate imposed by
1494 this article, then the user or purchaser shall apply the
1495 difference in these rates to the purchase price or value of the
1496 property or products and pay to the commissioner the amount of tax
1497 thus computed. Persons using business property or products in
1498 this state which has been used by them in other states shall be
1499 entitled to a credit for sales and/or use tax paid to other states
1500 equal to the aggregate of all such state rates multiplied by the
1501 value of the property or products at the time of importation into
1502 this state. Persons using business property or products in this



1503 state which were acquired from another person who used it in other
1504 states shall be entitled to a credit equal to the applicable rate
1505 in the state of last prior use multiplied by the value of the
1506 property or products at the time of importation into this state.
1507 However, credit for use tax paid to another state shall not apply
1508 on the purchase price of tangible personal property or specified
1509 digital products that have been only stored or warehoused in the
1510 other state and the first use of the property or products occurs
1511 in Mississippi. Provided further, that credit for sales or use
1512 tax paid to another state shall not apply on the purchase price or
1513 value of automobiles, trucks, truck-tractors, semitrailers,
1514 trailers, boats, travel trailers, motorcycles and all-terrain
1515 cycles imported and first used in Mississippi.

1516 Credit for sales or use tax paid to another state as provided
1517 in this paragraph (a) shall be evidenced by an invoice clearly and
1518 correctly showing the amount of the tax as a separate item, and no
1519 credit shall be allowed otherwise.

1520 (b) On the use, storage or consumption of tangible
1521 personal property or specified digital products to the extent that
1522 sales of similar property or products in Mississippi are either
1523 excluded or specifically exempt from sales tax or are taxed at the
1524 wholesale rate.

1525 This exemption shall be confined to the use of property or
1526 products the sale of which is an itemized exemption in the



1527 Mississippi Sales Tax Law, or to use by persons who are listed in
1528 the Mississippi Sales Tax Law as being exempt from sales tax.

1529 (c) On the use, storage or consumption of tangible
1530 personal property or specified digital products brought into this
1531 state by a nonresident for his or her use or enjoyment while
1532 temporarily within the state, but not including tangible personal
1533 property or specified digital products brought in for use in
1534 connection with a business activity. This exemption shall not
1535 apply to property or products which remain situated in this state
1536 for the repeated use, storage or consumption by out-of-state
1537 visitors, or which is acquired by visitors and first used in this
1538 state.

1539 (d) On the use of a motor vehicle for which a
1540 registration is required by the motor vehicle law, when such motor
1541 vehicle was purchased by a natural person for his personal or
1542 family use while such person was a bona fide resident of another
1543 state and who thereafter became a resident of this state, but not
1544 to include a motor vehicle which is transferred by the owner for
1545 commercial use or for use by another person within this state.

1546 (e) On the use of personal and household effects by a
1547 natural person acquired while the person was a bona fide resident
1548 of another state, and who thereafter became a resident of this
1549 state.

1550 (f) On the use or rental of motion picture film,
1551 video-audio tapes, phonograph records or specified digital



1552 products for exhibition either by a person paying Mississippi
1553 sales tax on gross income from admissions for the exhibitions or
1554 by a person operating a television or radio broadcasting station.

1555 (g) On any vehicle purchased in another state for use
1556 outside of this state by a Mississippi citizen serving in the
1557 Armed Forces and stationed in another state who elects to license
1558 the vehicle in Mississippi.

1559 (h) On the cost or value and on the use, storage and
1560 consumption of rail rolling stock and component parts thereof.

1561 (i) On the use, storage or consumption of literature,
1562 video tapes, photographic slides or specified digital products
1563 used by religious institutions for the propagation of their creeds
1564 or for carrying on their customary nonprofit religious activities,
1565 and on the use of any tangible personal property or specified
1566 digital products purchased and first used in another state by
1567 religious institutions for the propagation of their creeds or for
1568 carrying on their customary nonprofit religious activities.

1569 "Religious institution," for the purpose of this exemption, means
1570 any religious institution granted an exemption under 26 USCS
1571 Section 501(c)(3). Any exemption under this paragraph obtained by
1572 fraud, misstatement or misrepresentation shall be cancelled by
1573 the * * * Department of Revenue, and the person committing the
1574 fraud, misstatement or misrepresentation shall be liable for
1575 prosecution for fraud on the assessment, and, on conviction, shall
1576 be fined not less than One Thousand Dollars (\$1,000.00), or



1577 punished by imprisonment in the State Penitentiary for a term not
1578 to exceed five (5) years, or both, within the discretion of the
1579 court.

1580 (j) The tax on the cost or value of farm machinery used
1581 in the harvesting of agricultural products shall be limited to the
1582 ratio of use within this state to the life of the property.

1583 (k) [Repealed]

1584 (l) On the use of machinery and equipment; special
1585 tooling such as dies, molds, jigs and similar items treated as
1586 special tooling for federal income tax purposes; or repair parts
1587 therefor or replacements thereof; or repair services thereon; by a
1588 taxpayer other than the manufacturer when the manufacturer still
1589 holds title to the items and the items are purchased by the
1590 manufacturer as a part of a project as defined in Section
1591 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section
1592 57-75-5(f)(xxii).

1593 (m) On the use, storage or consumption of utilities
1594 purchased by a manufacturer described in Section 27-65-101(x).

1595 (n) On the use, storage or consumption of utilities
1596 purchased by an enterprise described in Section 27-65-101(cc).

1597 (o) On the use, storage or consumption of jet aircraft
1598 engines that are temporarily located within the State of
1599 Mississippi and are brought into the state for research and/or
1600 testing purposes at a jet aircraft engine research and testing
1601 facility.



1602 **SECTION 10.** Section 27-67-11, Mississippi Code of 1972, is
1603 brought forward as follows:

1604 27-67-11. (1) Every person maintaining a place of business,
1605 or doing business, in this state, shall collect the tax imposed by
1606 this article from the purchaser and remit the tax to the
1607 commissioner as hereinafter provided. Failure to collect the tax
1608 from the purchaser shall not relieve the seller of liability for
1609 payment of the tax.

1610 (2) This section does not affect or impair the:

1611 (a) Obligation of a purchaser in this state to remit
1612 use tax on any applicable transaction in which the seller does not
1613 collect and remit sales or use tax;

1614 (b) Obligation of a seller, when the seller is
1615 transacting business in the state and tax is collected on the
1616 transaction, to remit all state and local taxes on any applicable
1617 transaction in which the seller provides goods or furnishes
1618 services within the state * * *;

1619 (c) Ability of a state entity to immediately collect
1620 the taxes described in this section.

1621 (3) The department shall audit a marketplace facilitator
1622 solely for sales made by marketplace sellers and facilitated by
1623 the marketplace facilitator. The department shall not audit
1624 marketplace sellers for sales facilitated by a marketplace
1625 facilitator except to the extent the marketplace facilitator seeks
1626 relief from liability under subsection (5) of this section.



1627 (4) A marketplace facilitator that collects and remits the
1628 taxes imposed by this chapter shall collect taxes on sales through
1629 its marketplace based upon the address where the tangible personal
1630 property or specified digital products taxable under this chapter
1631 are shipped or delivered; provided, however, that taxes on
1632 services sold through its marketplace shall be collected as
1633 otherwise provided.

1634 (5) A marketplace facilitator is relieved of liability under
1635 this section for failure to collect and remit the correct amount
1636 of tax under this section to the extent that the failure was due
1637 to incorrect or insufficient information given to the marketplace
1638 facilitator by the marketplace seller, provided that the
1639 marketplace facilitator can demonstrate it made a reasonable
1640 effort to obtain correct and sufficient information from the
1641 marketplace seller. This subsection does not apply if the
1642 marketplace facilitator and the marketplace seller are related.

1643 (6) Nothing herein shall prohibit the marketplace
1644 facilitator and the marketplace seller from contractually agreeing
1645 to have the marketplace seller collect and remit all applicable
1646 taxes and fees where the marketplace seller:

1647 (a) Has annual United States gross sales over One
1648 Billion Dollars (\$1,000,000,000.00), including the gross sales of
1649 any related entities, and in the case of franchised entities,
1650 including the combined sales of all franchisees of a single
1651 franchisor;



1652 (b) Provides evidence to the marketplace facilitator
1653 that it is registered under Section 27-65-27 or Section 27-67-9 in
1654 this state; and

1655 (c) Notifies the department in a manner prescribed by
1656 the department that the marketplace seller will collect and remit
1657 all applicable taxes on its sales through the marketplace and is
1658 liable for failure to collect or remit applicable taxes on its
1659 sales.

1660 (7) Any person selling tangible personal property or
1661 specified digital products that does not maintain a place of
1662 business in this state may be authorized by the commissioner to
1663 collect the tax from customers in Mississippi who are liable for
1664 its payment, and such person shall remit the tax to the
1665 commissioner in the same manner and subject to the same
1666 requirements as a person maintaining a place of business or doing
1667 business within this state. Such authority may be cancelled at
1668 any time when, in the judgment of the commissioner, the tax can be
1669 collected more effectively from the purchaser in this state. When
1670 the tax has been collected from the purchaser, the seller shall be
1671 liable for payment of the tax to the commissioner.

1672 (8) Every person required or authorized to collect the tax
1673 shall add to the sales price of tangible personal property,
1674 services or specified digital products the amount of the tax
1675 imposed on purchaser for the use, storage, or consumption thereof,
1676 and, when so added, the tax shall be a debt from the purchaser to



1677 the seller until paid, and shall be collectible at law in the same
1678 manner as other debts. It shall be unlawful for any person to
1679 advertise, hold out, or state to the public or to any customer
1680 that the tax herein imposed will be assumed or absorbed by the
1681 seller or that any part thereof will be refunded. Said tax shall
1682 be stated separately from the sales price on the sales invoice and
1683 shown separately on the seller's records. The purchaser shall pay
1684 the tax to the seller as trustee for and on account of the state.

1685 **SECTION 11.** This act shall take effect and be in force from
1686 and after July 1, 2022.

