

By: Senator(s) Harkins

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2831

1 AN ACT TO AMEND SECTIONS 27-65-3, 27-65-19, 27-65-23,
2 27-65-101, 27-67-3 AND 27-67-7, MISSISSIPPI CODE OF 1972, TO
3 CLARIFY THE PROVISIONS REGARDING THE TAXATION OF REMOTE AND
4 INTERNET-BASED COMPUTER SOFTWARE PRODUCTS AND SERVICES; AND FOR
5 RELATED PURPOSES.

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

7 **SECTION 1.** Section 27-65-3, Mississippi Code of 1972, is
8 amended as follows:

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

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

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

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



20 joint benefits are derived from the operation of a business taxed
21 hereunder. "Person" shall also include any state, county,
22 municipal or other agency or association engaging in a business
23 taxable under this chapter.

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

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



45 penalties and interest owed by the taxpayer on the return or in an
46 audit for a period during which he operated without a sales tax
47 permit may be determined based on the sales tax accruing from the
48 taxpayer's operation for that period after the taking of this
49 credit.

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

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

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

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

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



69 (iii) The situs of wholesale sales of tangible
70 personal property taxed at wholesale rates, the amount of which is
71 not allowed as a credit against the sales tax liability of the
72 retailer, shall have a rural situs.

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

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

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

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

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



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

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

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

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

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

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

115 Where a trade-in is taken as part payment on tangible
116 personal property sold, "gross proceeds of sales" shall include
117 only the difference received between the selling price of the



118 tangible personal property and the amount allowed for a trade-in
119 of property of the same kind. When the trade-in is subsequently
120 sold, the selling price thereof shall be included in "gross
121 proceeds of sales."

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

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

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

139 (i) "Gross income" means the total charges for service
140 or the total receipts (actual or accrued) derived from trades,
141 business or commerce by reason of the investment of capital in the
142 business engaged in, including the sale or rental of tangible



143 personal property, compensation for labor and services performed,
144 and including the receipts from the sales of property retained as
145 toll, without any deduction for rebates, cost of property sold,
146 cost of materials used, labor costs, interest paid, losses or any
147 expense whatever.

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

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

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

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



168 window air-conditioning units, gasoline pumps, window guards,
169 floor coverings, carports, store fixtures, aluminum and plastic
170 siding, tombstones and similar personal property.

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

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

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

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

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



192 (v) Is formed of printed sheets; provided,
193 however, that a periodical that is reproduced by the stencil,
194 mimeograph or hectograph process shall not be considered to be a
195 "newspaper"; and

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

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

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

211 For purposes of this paragraph, a periodical designed
212 primarily for free circulation or circulation at nominal rates
213 shall not be considered to be a newspaper unless such periodical
214 has made an application for such status to the department in the
215 manner prescribed by the department and has provided to the
216 department documentation satisfactory to the department showing



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

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



242 where this credit is taken may be determined based on the sales
243 tax due after the taking of this credit.

244 (n) "Software" means any computer program or routine,
245 or any set of one or more programs or routines, which are used or
246 intended for use to cause one or more computers, pieces of
247 computer-related peripheral equipment, automatic processing
248 equipment, or any combination thereof, to perform a task or set of
249 tasks. A "computer program" is a series of instructions that is
250 coded for acceptance or use by a computer system which is designed
251 to permit the computer system to process data and provide results
252 and information. The series of instructions may be contained in
253 or on magnetic tapes, printed instructions, or other tangible or
254 electronic media or downloaded via the internet. Neither data nor
255 the results or information from the processing of data constitute
256 computer software or a computer program.

257 **SECTION 2.** Section 27-65-19, Mississippi Code of 1972, is
258 amended as follows:

259 27-65-19. (1) (a) (i) Except as otherwise provided in
260 this subsection, upon every person selling to consumers,
261 electricity, current, power, potable water, steam, coal, natural
262 gas, liquefied petroleum gas or other fuel, there is hereby
263 levied, assessed and shall be collected a tax equal to seven
264 percent (7%) of the gross income of the business. Provided, gross
265 income from sales to consumers of electricity, current, power,
266 natural gas, liquefied petroleum gas or other fuel for residential



267 heating, lighting or other residential noncommercial or
268 nonagricultural use, and sales of potable water for residential,
269 noncommercial or nonagricultural use shall be excluded from
270 taxable gross income of the business. Provided further, upon
271 every such seller using electricity, current, power, potable
272 water, steam, coal, natural gas, liquefied petroleum gas or other
273 fuel for nonindustrial purposes, there is hereby levied, assessed
274 and shall be collected a tax equal to seven percent (7%) of the
275 cost or value of the product or service used.

276 (ii) Gross income from sales to a church that is
277 exempt from federal income taxation under 26 USCS Section
278 501(c)(3) of electricity, current, power, natural gas, liquefied
279 petroleum gas or other fuel for heating, lighting or other use,
280 and sales of potable water to such a church shall be excluded from
281 taxable gross income of the business if the electricity, current,
282 power, natural gas, liquefied petroleum gas or potable water is
283 utilized on property that is primarily used for religious or
284 educational purposes.

285 (b) (i) There is hereby levied, assessed and shall be
286 collected a tax equal to one and one-half percent (1-1/2%) of the
287 gross income of the business from the sale of naturally occurring
288 carbon dioxide and anthropogenic carbon dioxide lawfully injected
289 into the earth for:



290 1. Use in an enhanced oil recovery project,
291 including, but not limited to, use for cycling, repressuring or
292 lifting of oil; or

293 2. Permanent sequestration in a geological
294 formation.

295 (ii) The one and one-half percent (1-1/2%) rate
296 provided for in this subsection shall apply to electricity,
297 current, power, steam, coal, natural gas, liquefied petroleum gas
298 or other fuel that is sold to a producer of oil and gas for use
299 directly in enhanced oil recovery using carbon dioxide and/or the
300 permanent sequestration of carbon dioxide in a geological
301 formation.

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

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

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

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



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

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

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

323 (ii) A person, upon proof that he has paid a tax
324 in another state on an event described in subparagraph (i) of this
325 paragraph (d), shall be allowed a credit against the tax imposed
326 in this paragraph (d) on interstate telecommunications service
327 charges to the extent that the amount of such tax is properly due
328 and actually paid in such other state and to the extent that the
329 rate of sales tax imposed by and paid in such other state does not
330 exceed the rate of sales tax imposed by this paragraph (d).

331 (iii) Charges by one (1) telecommunications
332 provider to another telecommunications provider holding a permit
333 issued under Section 27-65-27 for services that are resold by such
334 other telecommunications provider, including, but not limited to,
335 access charges, shall not be subject to the tax levied pursuant to
336 this paragraph (d).

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



338 1. "Telecommunications service" means the
339 electronic transmission, conveyance or routing of voice, data,
340 audio, video or any other information or signals to a point, or
341 between points. The term "telecommunications service" includes
342 such transmission, conveyance or routing in which computer
343 processing applications are used to act on the form, code or
344 protocol of the content for purposes of transmission, conveyance
345 or routing without regard to whether such service is referred to
346 as voice over Internet protocol services or is classified by the
347 Federal Communications Commission as enhanced or value added. The
348 term "telecommunications service" shall not include:

349 a. Data processing and information
350 services that allow data to be generated, acquired, stored,
351 processed or retrieved and delivered by an electronic transmission
352 to a purchaser where such purchaser's primary purpose for the
353 underlying transaction is the processed data or information;

354 b. Installation or maintenance of wiring
355 or equipment on a customer's premises;

356 c. Tangible personal property;

357 d. Advertising, including, but not
358 limited to, directory advertising;

359 e. Billing and collection services
360 provided to third parties;

361 f. Internet access service;



362 g. Radio and television audio and video
363 programming services regardless of the medium, including the
364 furnishing of transmission, conveyance and routing of such
365 services by the programming service provider. Radio and
366 television audio and video programming services shall include, but
367 not be limited to, cable service as defined in 47 USCS 522(6) and
368 audio and video programming services delivered by commercial
369 mobile radio service providers, as defined in 47 CFR 20.3;

370 h. Ancillary services; or

371 i. Digital products delivered
372 electronically, including, but not limited to, software, music,
373 video, reading materials or ring tones.

374 2. "Ancillary services" means services that
375 are associated with or incidental to the provision of
376 telecommunications services, including, but not limited to,
377 detailed telecommunications billing, directory assistance,
378 vertical service and voice mail service.

379 a. "Conference bridging" means an
380 ancillary service that links two (2) or more participants of an
381 audio or video conference call and may include the provision of a
382 telephone number. Conference bridging does not include the
383 telecommunications services used to reach the conference bridge.

384 b. "Detailed telecommunications billing
385 service" means an ancillary service of separately stating



386 information pertaining to individual calls on a customer's billing
387 statement.

388 c. "Directory assistance" means an
389 ancillary service of providing telephone number information and/or
390 address information.

391 d. "Vertical service" means an ancillary
392 service that is offered in connection with one or more
393 telecommunications services, which offers advanced calling
394 features that allow customers to identify callers and to manage
395 multiple calls and call connections, including conference bridging
396 services.

397 e. "Voice mail service" means an
398 ancillary service that enables the customer to store, send or
399 receive recorded messages. Voice mail service does not include
400 any vertical services that the customer may be required to have in
401 order to utilize the voice mail service.

402 3. "Intrastate" means telecommunications
403 service that originates in one (1) United States state or United
404 States territory or possession, and terminates in the same United
405 States state or United States territory or possession.

406 4. "Interstate" means a telecommunications
407 service that originates in one (1) United States state or United
408 States territory or possession, and terminates in a different
409 United States state or United States territory or possession.



410 5. "International" means a telecommunications
411 service that originates or terminates in the United States and
412 terminates or originates outside the United States, respectively.

413 6. Software maintained on a server, computer
414 or equipment located outside the state and accessed by a person or
415 from a location in this state via the internet is not considered
416 delivered into Mississippi and is not subject to tax under this
417 chapter.

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

420 1. Except for the defined telecommunications
421 services in item 3 of this subparagraph, the sales of
422 telecommunications services sold on a call-by-call basis shall be
423 sourced to:

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

426 b. Each level of taxing jurisdiction
427 where the call either originates or terminates and in which the
428 service address is also located.

429 2. Except for the defined telecommunications
430 services in item 3 of this subparagraph, a sale of
431 telecommunications services sold on a basis other than a
432 call-by-call basis, is sourced to the customer's place of primary
433 use.



434 3. The sale of the following
435 telecommunications services shall be sourced to each level of
436 taxing jurisdiction as follows:

437 a. A sale of mobile telecommunications
438 services other than air-to-ground radiotelephone service and
439 prepaid calling service is sourced to the customer's place of
440 primary use as required by the Mobile Telecommunication Sourcing
441 Act.

442 A. A home service provider shall be
443 responsible for obtaining and maintaining the customer's place of
444 primary use. The home service provider shall be entitled to rely
445 on the applicable residential or business street address supplied
446 by such customer, if the home service provider's reliance is in
447 good faith; and the home service provider shall be held harmless
448 from liability for any additional taxes based on a different
449 determination of the place of primary use for taxes that are
450 customarily passed on to the customer as a separate itemized
451 charge. A home service provider shall be allowed to treat the
452 address used for purposes of the tax levied by this chapter for
453 any customer under a service contract in effect on August 1, 2002,
454 as that customer's place of primary use for the remaining term of
455 such service contract or agreement, excluding any extension or
456 renewal of such service contract or agreement. Month-to-month
457 services provided after the expiration of a contract shall be
458 treated as an extension or renewal of such contract or agreement.



459 B. If the commissioner determines
460 that the address used by a home service provider as a customer's
461 place of primary use does not meet the definition of the term
462 "place of primary use" as defined in subitem a.A. of this item 3,
463 the commissioner shall give binding notice to the home service
464 provider to change the place of primary use on a prospective basis
465 from the date of notice of determination; however, the customer
466 shall have the opportunity, prior to such notice of determination,
467 to demonstrate that such address satisfies the definition.

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

473 b. A sale of postpaid calling service is
474 sourced to the origination point of the telecommunications signal
475 as first identified by either:

476 A. The seller's telecommunications
477 system; or

478 B. Information received by the
479 seller from its service provider, where the system used to
480 transport such signals is not that of the seller.

481 c. A sale of a prepaid calling service
482 or prepaid wireless calling service shall be subject to the tax
483 imposed by this paragraph if the sale takes place in this state.



484 If the customer physically purchases a prepaid calling service or
485 prepaid wireless calling service at the vendor's place of
486 business, the sale is deemed to take place at the vendor's place
487 of business. If the customer does not physically purchase the
488 service at the vendor's place of business, the sale of a prepaid
489 calling card or prepaid wireless calling card is deemed to take
490 place at the first of the following locations that applies to the
491 sale:

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

494 B. The customer's billing address;

495 C. Any other address of the
496 customer that is known by the vendor; or

497 D. The address of the vendor, or
498 alternatively, in the case of a prepaid wireless calling service,
499 the location associated with the mobile telephone number.

500 4. A sale of a private communication service
501 is sourced as follows:

502 a. Service for a separate charge related
503 to a customer channel termination point is sourced to each level
504 of jurisdiction in which such customer channel termination point
505 is located.

506 b. Service where all customer
507 termination points are located entirely within one (1)
508 jurisdiction or levels of jurisdiction is sourced in such



509 jurisdiction in which the customer channel termination points are
510 located.

511 c. Service for segments of a channel
512 between two (2) customer channel termination points located in
513 different jurisdictions and which segments of a channel are
514 separately charged is sourced fifty percent (50%) in each level of
515 jurisdiction in which the customer channel termination points are
516 located.

517 d. Service for segments of a channel
518 located in more than one (1) jurisdiction or levels of
519 jurisdiction and which segments are not separately billed is
520 sourced in each jurisdiction based on the percentage determined by
521 dividing the number of customer channel termination points in such
522 jurisdiction by the total number of customer channel termination
523 points.

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

526 (vi) For purposes of subparagraph (v) of this
527 paragraph (d):

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



532 2. "Call-by-call basis" means any method of
533 charging for telecommunications services where the price is
534 measured by individual calls.

535 3. "Communications channel" means a physical
536 or virtual path of communications over which signals are
537 transmitted between or among customer channel termination points.

538 4. "Customer" means the person or entity that
539 contracts with the seller of telecommunications services. If the
540 end user of telecommunications services is not the contracting
541 party, the end user of the telecommunications service is the
542 customer of the telecommunications service. Customer does not
543 include a reseller of telecommunications service or for mobile
544 telecommunications service of a serving carrier under an agreement
545 to serve the customer outside the home service provider's licensed
546 service area.

547 5. "Customer channel termination point" means
548 the location where the customer either inputs or receives the
549 communications.

550 6. "End user" means the person who utilizes
551 the telecommunications service. In the case of an entity, "end
552 user" means the individual who utilizes the service on behalf of
553 the entity.

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



557 8. "Mobile telecommunications service" has
558 the meaning ascribed to such term in Section 124(7) of Public Law
559 106-252 (Mobile Telecommunications Sourcing Act).

560 9. "Place of primary use" means the street
561 address representative of where the customer's use of the
562 telecommunications service primarily occurs, which must be the
563 residential street address or the primary business street address
564 of the customer. In the case of mobile telecommunications
565 services, the place of primary use must be within the licensed
566 service area of the home service provider.

567 10. "Post-paid calling service" means the
568 telecommunications service obtained by making a payment on a
569 call-by-call basis either through the use of a credit card or
570 payment mechanism such as a bank card, travel card, credit card or
571 debit card, or by charge made to a telephone number which is not
572 associated with the origination or termination of the
573 telecommunications service. A post-paid calling service includes
574 a telecommunications service, except a prepaid wireless calling
575 service that would be a prepaid calling service except it is not
576 exclusively a telecommunications service.

577 11. "Prepaid calling service" means the right
578 to access exclusively telecommunications services, which must be
579 paid for in advance and which enables the origination of calls
580 using an access number or authorization code, whether manually or



581 electronically dialed, and that is sold in predetermined units or
582 dollars of which the number declines with use in a known amount.

583 12. "Prepaid wireless calling service" means
584 a telecommunications service that provides the right to utilize
585 mobile wireless service as well as other nontelecommunications
586 services, including the download of digital products delivered
587 electronically, content and ancillary service, which must be paid
588 for in advance that is sold in predetermined units or dollars of
589 which the number declines with use in a known amount.

590 13. "Private communication service" means a
591 telecommunications service that entitles the customer to exclusive
592 or priority use of a communications channel or group of channels
593 between or among termination points, regardless of the manner in
594 which such channel or channels are connected, and includes
595 switching capacity, extension lines, stations and any other
596 associated services that are provided in connection with the use
597 of such channel or channels.

598 14. "Service address" means:

599 a. The location of the
600 telecommunications equipment to which a customer's call is charged
601 and from which the call originates or terminates, regardless of
602 where the call is billed or paid.

603 b. If the location in subitem a of this
604 item 14 is not known, the origination point of the signal of the
605 telecommunications services first identified by either the



606 seller's telecommunications system or in information received by
607 the seller from its service provider, where the system used to
608 transport such signals is not that of the seller.

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

612 (vii) 1. For purposes of this subparagraph (vii),
613 "bundled transaction" means a transaction that consists of
614 distinct and identifiable properties or services which are sold
615 for a single nonitemized price but which are treated differently
616 for tax purposes.

617 2. In the case of a bundled transaction that
618 includes telecommunications services, ancillary services, Internet
619 access, or audio or video programming services taxed under this
620 chapter in which the price of the bundled transaction is
621 attributable to properties or services that are taxable and
622 nontaxable, the portion of the price that is attributable to any
623 nontaxable property or service shall be subject to the tax unless
624 the provider can reasonably identify that portion from its books
625 and records kept in the regular course of business.

626 3. In the case of a bundled transaction that
627 includes telecommunications services, ancillary services, Internet
628 access, audio or video programming services subject to tax under
629 this chapter in which the price is attributable to properties or
630 services that are subject to the tax but the tax revenue from the



631 different properties or services are dedicated to different funds
632 or purposes, the provider shall allocate the price among the
633 properties or services:

634 a. By reasonably identifying the portion
635 of the price attributable to each of the properties and services
636 from its books and records kept in the regular course of business;
637 or

638 b. Based on a reasonable allocation
639 methodology approved by the department.

640 4. This subparagraph (vii) shall not create a
641 right of action for a customer to require that the provider or the
642 department, for purposes of determining the amount of tax
643 applicable to a bundled transaction, allocate the price to the
644 different portions of the transaction in order to minimize the
645 amount of tax charged to the customer. A customer shall not be
646 entitled to rely on the fact that a portion of the price is
647 attributable to properties or services not subject to tax unless
648 the provider elects, after receiving a written request from the
649 customer in the form required by the provider, to provide
650 verifiable data based upon the provider's books and records that
651 are kept in the regular course of business that reasonably
652 identifies the portion of the price attributable to the properties
653 or services not subject to the tax.

654 (2) Persons making sales to consumers of electricity,
655 current, power, natural gas, liquefied petroleum gas or other fuel



656 for residential heating, lighting or other residential
657 noncommercial or nonagricultural use or sales of potable water for
658 residential, noncommercial or nonagricultural use shall indicate
659 on each statement rendered to customers that such charges are
660 exempt from sales taxes.

661 (3) There is hereby levied, assessed and shall be paid on
662 transportation charges on shipments moving between points within
663 this state when paid directly by the consumer, a tax equal to the
664 rate applicable to the sale of the property being transported.
665 Such tax shall be reported and paid directly to the Department of
666 Revenue by the consumer.

667 **SECTION 3.** Section 27-65-23, Mississippi Code of 1972, is
668 amended as follows:

669 27-65-23. Upon every person engaging or continuing in any of
670 the following businesses or activities there is hereby levied,
671 assessed and shall be collected a tax equal to seven percent (7%)
672 of the gross income of the business, except as otherwise provided:

673 Air-conditioning installation or repairs;

674 Automobile, motorcycle, boat or any other vehicle
675 repairing or servicing;

676 Billiards, pool or domino parlors;

677 Bowling or tenpin alleys;

678 Burglar and fire alarm systems or services;

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

680 Computer software sales and services;



681 Cotton compresses or cotton warehouses;
682 Custom creosoting or treating, custom planing, custom
683 sawing;
684 Custom meat processing;
685 Electricians, electrical work, wiring, all repairs or
686 installation of electrical equipment;
687 Elevator or escalator installing, repairing or
688 servicing;
689 Film developing or photo finishing;
690 Foundries, machine or general repairing;
691 Furniture repairing or upholstering;
692 Grading, excavating, ditching, dredging or landscaping;
693 Hotels (as defined in Section 41-49-3), motels, tourist
694 courts or camps, trailer parks;
695 Insulating services or repairs;
696 Jewelry or watch repairing;
697 Laundering, cleaning, pressing or dyeing;
698 Marina services;
699 Mattress renovating;
700 Office and business machine repairing;
701 Parking garages and lots;
702 Plumbing or pipe fitting;
703 Public storage warehouses (There shall be no tax levied
704 on gross income of a public storage warehouse derived from the



705 temporary storage of tangible personal property in this state
706 pending shipping or mailing of the property to another state.);
707 Refrigerating equipment repairs;
708 Radio or television installing, repairing, or servicing;
709 Renting or leasing personal property used within this
710 state;
711 Services performed in connection with geophysical
712 surveying, exploring, developing, drilling, producing,
713 distributing, or testing of oil, gas, water and other mineral
714 resources;
715 Shoe repairing;
716 Storage lockers;
717 Telephone answering or paging services;
718 Termite or pest control services;
719 Tin and sheet metal shops;
720 TV cable systems, subscription TV services, and other
721 similar activities;
722 Vulcanizing, repairing or recapping of tires or tubes;
723 Welding; and
724 Woodworking or woodu-turning shops.
725 Income from services taxed herein performed for electric
726 power associations in the ordinary and necessary operation of
727 their generating or distribution systems shall be taxed at the
728 rate of one percent (1%).



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

734 Income from renting or leasing tangible personal property
735 used within this state shall be taxed at the same rates as sales
736 of the same property.

737 Persons doing business in this state who rent transportation
738 equipment with a situs within or without the state to common,
739 contract or private commercial carriers are taxed on that part of
740 the income derived from use within this state. If specific
741 accounting is impracticable, a formula may be used with approval
742 of the commissioner.

743 A lessor may deduct from the tax computed on the rental
744 income from tangible personal property a credit for sales or use
745 tax paid to this state at the time of purchase of the specific
746 personal property being leased or rented until such credit has
747 been exhausted.

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

752 When a taxpayer performs unitary services covered by this
753 section, which are performed both in intrastate and interstate



754 commerce, the commissioner is hereby invested with authority to
755 formulate in each particular case and to fix for such taxpayer in
756 each instance formulae of apportionment which will apportion to
757 this state, for taxation, that portion of the services which are
758 performed within the State of Mississippi.

759 Computer software sales and services performed remotely via
760 the internet or cloud computing are not taxable under this chapter
761 when performed by individuals or by use of software maintained on
762 servers, computers or equipment located outside the state. Cloud
763 computing includes the delivery of computing resources, including
764 the use of software applications, development tools, storage and
765 servers over the internet, and further includes the software as a
766 service model (SaaS), platform as a service model (PaaS),
767 infrastructure as a service model (IaaS), and similar remote
768 service models.

769 **SECTION 4.** Section 27-65-101, Mississippi Code of 1972, is
770 amended as follows:

771 27-65-101. (1) The exemptions from the provisions of this
772 chapter which are of an industrial nature or which are more
773 properly classified as industrial exemptions than any other
774 exemption classification of this chapter shall be confined to
775 those persons or property exempted by this section or by the
776 provisions of the Constitution of the United States or the State
777 of Mississippi. No industrial exemption as now provided by any
778 other section except Section 57-3-33 shall be valid as against the



779 tax herein levied. Any subsequent industrial exemption from the
780 tax levied hereunder shall be provided by amendment to this
781 section. No exemption provided in this section shall apply to
782 taxes levied by Section 27-65-15 or 27-65-21.

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

785 (a) Sales of boxes, crates, cartons, cans, bottles and
786 other packaging materials to manufacturers and wholesalers for use
787 as containers or shipping materials to accompany goods sold by
788 said manufacturers or wholesalers where possession thereof will
789 pass to the customer at the time of sale of the goods contained
790 therein and sales to anyone of containers or shipping materials
791 for use in ships engaged in international commerce.

792 (b) Sales of raw materials, catalysts, processing
793 chemicals, welding gases or other industrial processing gases
794 (except natural gas) to a manufacturer for use directly in
795 manufacturing or processing a product for sale or rental or
796 repairing or reconditioning vessels or barges of fifty (50) tons
797 load displacement and over. For the purposes of this exemption,
798 electricity used directly in the electrolysis process in the
799 production of sodium chlorate shall be considered a raw material.
800 This exemption shall not apply to any property used as fuel except
801 to the extent that such fuel comprises by-products which have no
802 market value.



803 (c) The gross proceeds of sales of dry docks, offshore
804 drilling equipment for use in oil or natural gas exploration or
805 production, vessels or barges of fifty (50) tons load displacement
806 and over, when the vessels or barges are sold by the manufacturer
807 or builder thereof. In addition to other types of equipment,
808 offshore drilling equipment for use in oil or natural gas
809 exploration or production shall include aircraft used
810 predominately to transport passengers or property to or from
811 offshore oil or natural gas exploration or production platforms or
812 vessels, and engines, accessories and spare parts for such
813 aircraft.

814 (d) Sales to commercial fishermen of commercial fishing
815 boats of over five (5) tons load displacement and not more than
816 fifty (50) tons load displacement as registered with the United
817 States Coast Guard and licensed by the Mississippi Commission on
818 Marine Resources.

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

821 (f) Sales of petroleum products to vessels or barges
822 for consumption in marine international commerce or interstate
823 transportation businesses.

824 (g) Sales and rentals of rail rolling stock (and
825 component parts thereof) for ultimate use in interstate commerce
826 and gross income from services with respect to manufacturing,



827 repairing, cleaning, altering, reconditioning or improving such
828 rail rolling stock (and component parts thereof).

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

835 (i) Sales of machinery or tools or repair parts
836 therefor or replacements thereof, fuel or supplies used directly
837 in manufacturing, converting or repairing ships, vessels or barges
838 of three thousand (3,000) tons load displacement and over, but not
839 to include office and plant supplies or other equipment not
840 directly used on the ship, vessel or barge being built, converted
841 or repaired. For purposes of this exemption, "ships, vessels or
842 barges" shall not include floating structures described in Section
843 27-65-18.

844 (j) Sales of tangible personal property to persons
845 operating ships in international commerce for use or consumption
846 on board such ships. This exemption shall be limited to cases in
847 which procedures satisfactory to the commissioner, ensuring
848 against use in this state other than on such ships, are
849 established.

850 (k) Sales of materials used in the construction of a
851 building, or any addition or improvement thereon, and sales of any



852 machinery and equipment not later than three (3) months after the
853 completion of construction of the building, or any addition
854 thereon, to be used therein, to qualified businesses, as defined
855 in Section 57-51-5, which are located in a county or portion
856 thereof designated as an enterprise zone pursuant to Sections
857 57-51-1 through 57-51-15.

858 (l) Sales of materials used in the construction of a
859 building, or any addition or improvement thereon, and sales of any
860 machinery and equipment not later than three (3) months after the
861 completion of construction of the building, or any addition
862 thereon, to be used therein, to qualified businesses, as defined
863 in Section 57-54-5.

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

866 (n) The value of natural gas lawfully injected into the
867 earth for cycling, repressuring or lifting of oil, or lawfully
868 vented or flared in connection with the production of oil;
869 however, if any gas so injected into the earth is sold for such
870 purposes, then the gas so sold shall not be exempt.

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

873 (p) Sales of materials used in the construction of a
874 building, or any addition or improvement thereon, and sales of any
875 machinery and equipment not later than three (3) months after the
876 completion of construction of the building, or any addition



877 thereon, to be used therein, to qualified companies, certified as
878 such by the Mississippi Development Authority under Section
879 57-53-1.

880 (q) Sales of component materials used in the
881 construction of a building, or any addition or improvement
882 thereon, sales of machinery and equipment to be used therein, and
883 sales of manufacturing or processing machinery and equipment which
884 is permanently attached to the ground or to a permanent foundation
885 and which is not by its nature intended to be housed within a
886 building structure, not later than three (3) months after the
887 initial start-up date, to permanent business enterprises engaging
888 in manufacturing or processing in Tier Three areas (as such term
889 is defined in Section 57-73-21), which businesses are certified by
890 the Department of Revenue as being eligible for the exemption
891 granted in this paragraph (q).

892 (r) (i) Sales of component materials used in the
893 construction of a building, or any addition or improvement
894 thereon, and sales of any machinery and equipment not later than
895 three (3) months after the completion of the building, addition or
896 improvement thereon, to be used therein, for any company
897 establishing or transferring its national or regional headquarters
898 from within or outside the State of Mississippi and creating a
899 minimum of twenty (20) jobs at the new headquarters in this state.
900 The Department of Revenue shall establish criteria and prescribe
901 procedures to determine if a company qualifies as a national or



902 regional headquarters for the purpose of receiving the exemption
903 provided in this subparagraph (i).

904 (ii) Sales of component materials used in the
905 construction of a building, or any addition or improvement
906 thereon, and sales of any machinery and equipment not later than
907 three (3) months after the completion of the building, addition or
908 improvement thereon, to be used therein, for any company expanding
909 or making additions after January 1, 2013, to its national or
910 regional headquarters within the State of Mississippi and creating
911 a minimum of twenty (20) new jobs at the headquarters as a result
912 of the expansion or additions. The Department of Revenue shall
913 establish criteria and prescribe procedures to determine if a
914 company qualifies as a national or regional headquarters for the
915 purpose of receiving the exemption provided in this subparagraph
916 (ii).

917 (s) The gross proceeds from the sale of semitrailers,
918 trailers, boats, travel trailers, motorcycles, all-terrain cycles
919 and rotary-wing aircraft if exported from this state within
920 forty-eight (48) hours and registered and first used in another
921 state.

922 (t) Gross income from the storage and handling of
923 natural gas in underground salt domes and in other underground
924 reservoirs, caverns, structures and formations suitable for such
925 storage.



926 (u) Sales of machinery and equipment to nonprofit
927 organizations if the organization:

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

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

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

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

941 (v) Sales or leases of materials and equipment to
942 approved business enterprises as provided under the Growth and
943 Prosperity Act.

944 (w) From and after July 1, 2001, sales of pollution
945 control equipment to manufacturers or custom processors for
946 industrial use. For the purposes of this exemption, "pollution
947 control equipment" means equipment, devices, machinery or systems
948 used or acquired to prevent, control, monitor or reduce air, water
949 or groundwater pollution, or solid or hazardous waste as required
950 by federal or state law or regulation.



951 (x) Sales or leases to a manufacturer of motor vehicles
952 or powertrain components operating a project that has been
953 certified by the Mississippi Major Economic Impact Authority as a
954 project as defined in Section 57-75-5(f)(iv)1, Section
955 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) of machinery and
956 equipment; special tooling such as dies, molds, jigs and similar
957 items treated as special tooling for federal income tax purposes;
958 or repair parts therefor or replacements thereof; repair services
959 thereon; fuel, supplies, electricity, coal and natural gas used
960 directly in the manufacture of motor vehicles or motor vehicle
961 parts or used to provide climate control for manufacturing areas.

962 (y) Sales or leases of component materials, machinery
963 and equipment used in the construction of a building, or any
964 addition or improvement thereon to an enterprise operating a
965 project that has been certified by the Mississippi Major Economic
966 Impact Authority as a project as defined in Section
967 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi), Section 57-75-5(f)(xxii)
968 or Section 57-75-5(f)(xxviii) and any other sales or leases
969 required to establish or operate such project.

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

972 (aa) The gross income from the stripping and painting
973 of commercial aircraft engaged in foreign or interstate
974 transportation business.

975 (bb) [Repealed]



976 (cc) Sales or leases to an enterprise owning or
977 operating a project that has been designated by the Mississippi
978 Major Economic Impact Authority as a project as defined in Section
979 57-75-5(f) (xviii) of machinery and equipment; special tooling such
980 as dies, molds, jigs and similar items treated as special tooling
981 for federal income tax purposes; or repair parts therefor or
982 replacements thereof; repair services thereon; fuel, supplies,
983 electricity, coal and natural gas used directly in the
984 manufacturing/production operations of the project or used to
985 provide climate control for manufacturing/production areas.

986 (dd) Sales or leases of component materials, machinery
987 and equipment used in the construction of a building, or any
988 addition or improvement thereon to an enterprise owning or
989 operating a project that has been designated by the Mississippi
990 Major Economic Impact Authority as a project as defined in Section
991 57-75-5(f) (xviii) and any other sales or leases required to
992 establish or operate such project.

993 (ee) Sales of parts used in the repair and servicing of
994 aircraft not registered in Mississippi engaged exclusively in the
995 business of foreign or interstate transportation to businesses
996 engaged in aircraft repair and maintenance.

997 (ff) Sales of component materials used in the
998 construction of a facility, or any addition or improvement
999 thereon, and sales or leases of machinery and equipment not later
1000 than three (3) months after the completion of construction of the



1001 facility, or any addition or improvement thereto, to be used in
1002 the building or any addition or improvement thereto, to a
1003 permanent business enterprise operating a data/information
1004 enterprise in Tier Three areas (as such areas are designated in
1005 accordance with Section 57-73-21), meeting minimum criteria
1006 established by the Mississippi Development Authority.

1007 (gg) Sales of component materials used in the
1008 construction of a facility, or any addition or improvement
1009 thereto, and sales of machinery and equipment not later than three
1010 (3) months after the completion of construction of the facility,
1011 or any addition or improvement thereto, to be used in the facility
1012 or any addition or improvement thereto, to technology intensive
1013 enterprises for industrial purposes in Tier Three areas (as such
1014 areas are designated in accordance with Section 57-73-21), as
1015 certified by the Department of Revenue. For purposes of this
1016 paragraph, an enterprise must meet the criteria provided for in
1017 Section 27-65-17(1)(f) in order to be considered a technology
1018 intensive enterprise.

1019 (hh) Sales of component materials used in the
1020 replacement, reconstruction or repair of a building or facility
1021 that has been destroyed or sustained extensive damage as a result
1022 of a disaster declared by the Governor, sales of machinery and
1023 equipment to be used therein to replace machinery or equipment
1024 damaged or destroyed as a result of such disaster, including, but
1025 not limited to, manufacturing or processing machinery and



1026 equipment which is permanently attached to the ground or to a
1027 permanent foundation and which is not by its nature intended to be
1028 housed within a building structure, to enterprises or companies
1029 that were eligible for the exemptions authorized in paragraph (q),
1030 (r), (ff) or (gg) of this subsection during initial construction
1031 of the building that was destroyed or damaged, which enterprises
1032 or companies are certified by the Department of Revenue as being
1033 eligible for the exemption granted in this paragraph.

1034 (ii) Sales of software or software services transmitted
1035 by the Internet to a destination outside the State of Mississippi
1036 where the first use of such software or software services by the
1037 purchaser occurs outside the State of Mississippi.

1038 (jj) Gross income of public storage warehouses derived
1039 from the temporary storage of raw materials that are to be used in
1040 an eligible facility as defined in Section 27-7-22.35.

1041 (kk) Sales of component building materials and
1042 equipment for initial construction of facilities or expansion of
1043 facilities as authorized under Sections 57-113-1 through 57-113-7
1044 and Sections 57-113-21 through 57-113-27.

1045 (ll) Sales and leases of machinery and equipment
1046 acquired in the initial construction to establish facilities as
1047 authorized in Sections 57-113-1 through 57-113-7.

1048 (mm) Sales and leases of replacement hardware, software
1049 or other necessary technology to operate a data center as
1050 authorized under Sections 57-113-21 through 57-113-27.



1051 (nn) Sales of component materials used in the
1052 construction of a building, or any addition or improvement
1053 thereon, and sales or leases of machinery and equipment not later
1054 than three (3) months after the completion of the construction of
1055 the facility, to be used in the facility, to permanent business
1056 enterprises operating a facility producing renewable crude oil
1057 from biomass harvested or produced, in whole or in part, in
1058 Mississippi, which businesses meet minimum criteria established by
1059 the Mississippi Development Authority. As used in this paragraph,
1060 the term "biomass" shall have the meaning ascribed to such term in
1061 Section 57-113-1.

1062 (oo) Sales of supplies, equipment and other personal
1063 property to an organization that is exempt from taxation under
1064 Section 501(c)(3) of the Internal Revenue Code and is the host
1065 organization coordinating a professional golf tournament played or
1066 to be played in this state and the supplies, equipment or other
1067 personal property will be used for purposes related to the golf
1068 tournament and related activities.

1069 (pp) Sales of materials used in the construction of a
1070 health care industry facility, as defined in Section 57-117-3, or
1071 any addition or improvement thereon, and sales of any machinery
1072 and equipment not later than three (3) months after the completion
1073 of construction of the facility, or any addition thereon, to be
1074 used therein, to qualified businesses, as defined in Section



1075 57-117-3. This paragraph shall be repealed from and after July 1,
1076 2022.

1077 (qq) Sales or leases to a manufacturer of automotive
1078 parts operating a project that has been certified by the
1079 Mississippi Major Economic Impact Authority as a project as
1080 defined in Section 57-75-5(f) (xxviii) of machinery and equipment;
1081 or repair parts therefor or replacements thereof; repair services
1082 thereon; fuel, supplies, electricity, coal, nitrogen and natural
1083 gas used directly in the manufacture of automotive parts or used
1084 to provide climate control for manufacturing areas.

1085 (rr) Gross collections derived from guided tours on any
1086 navigable waters of this state, which include providing
1087 accommodations, guide services and/or related equipment operated
1088 by or under the direction of the person providing the tour, for
1089 the purposes of outdoor tourism. The exemption provided in this
1090 paragraph (rr) does not apply to the sale of tangible personal
1091 property by a person providing such tours.

1092 (ss) Retail sales of truck-tractors and semitrailers
1093 used in interstate commerce and registered under the International
1094 Registration Plan (IRP) or any similar reciprocity agreement or
1095 compact relating to the proportional registration of commercial
1096 vehicles entered into as provided for in Section 27-19-143.

1097 (tt) Sales exempt under the Facilitating Business Rapid
1098 Response to State Declared Disasters Act of 2015 (Sections
1099 27-113-1 through 27-113-9).



1100 (uu) Sales or leases to an enterprise and its
1101 affiliates operating a project that has been certified by the
1102 Mississippi Major Economic Impact Authority as a project as
1103 defined in Section 57-75-5(f)(xxix) of:

1104 (i) All personal property and fixtures, including
1105 without limitation, sales or leases to the enterprise and its
1106 affiliates of:

1107 1. Manufacturing machinery and equipment;

1108 2. Special tooling such as dies, molds, jigs
1109 and similar items treated as special tooling for federal income
1110 tax purposes;

1111 3. Component building materials, machinery
1112 and equipment used in the construction of buildings, and any other
1113 additions or improvements to the project site for the project;

1114 4. Nonmanufacturing furniture, fixtures and
1115 equipment (inclusive of all communications, computer, server,
1116 software and other hardware equipment); and

1117 5. Fuel, supplies (other than
1118 nonmanufacturing consumable supplies and water), electricity,
1119 nitrogen gas and natural gas used directly in the
1120 manufacturing/production operations of such project or used to
1121 provide climate control for manufacturing/production areas of such
1122 project;



1123 (ii) All replacements of, repair parts for or
1124 services to repair items described in subparagraph (i)1, 2 and 3
1125 of this paragraph; and

1126 (iii) All services taxable pursuant to Section
1127 27-65-23 required to establish, support, operate, repair and/or
1128 maintain such project.

1129 (vv) Sales or leases to an enterprise operating a
1130 project that has been certified by the Mississippi Major Economic
1131 Impact Authority as a project as defined in Section
1132 57-75-5(f) (xxx) of:

1133 (i) Purchases required to establish and operate
1134 the project, including, but not limited to, sales of component
1135 building materials, machinery and equipment required to establish
1136 the project facility and any additions or improvements thereon;
1137 and

1138 (ii) Machinery, special tools (such as dies,
1139 molds, and jigs) or repair parts thereof, or replacements and
1140 lease thereof, repair services thereon, fuel, supplies and
1141 electricity, coal and natural gas used in the manufacturing
1142 process and purchased by the enterprise owning or operating the
1143 project for the benefit of the project.

1144 (ww) Sales of component materials used in the
1145 construction of a building, or any expansion or improvement
1146 thereon, sales of machinery and/or equipment to be used therein,
1147 and sales of processing machinery and equipment which is



1148 permanently attached to the ground or to a permanent foundation
1149 which is not by its nature intended to be housed in a building
1150 structure, no later than three (3) months after initial startup,
1151 expansion or improvement of a permanent enterprise solely engaged
1152 in the conversion of natural sand into proppants used in oil and
1153 gas exploration and development with at least ninety-five percent
1154 (95%) of such proppants used in the production of oil and/or gas
1155 from horizontally drilled wells and/or horizontally drilled
1156 recompletion wells as defined in Sections 27-25-501 and 27-25-701.

1157 (xx) Sales of software, software services, or software
1158 licenses to the extent such payment represents the right to use
1159 such software or services by persons located outside the State of
1160 Mississippi. The extent to which software, software services, or
1161 software licenses are used inside and outside this state shall be
1162 determined based on the physical locations of the authorized
1163 users.

1164 (yy) Sales of software or software services transmitted
1165 or delivered via the internet to a destination inside the State of
1166 Mississippi where the first use of such software or software
1167 services by the purchaser occurs outside the State of Mississippi,
1168 if sales or use tax was paid on such software in such other state,
1169 or if sales or use would have been paid to such other state if
1170 Mississippi law had applied to such purchase or use outside the
1171 state.



1172 (2) Sales of component materials used in the construction of
1173 a building, or any addition or improvement thereon, sales of
1174 machinery and equipment to be used therein, and sales of
1175 manufacturing or processing machinery and equipment which is
1176 permanently attached to the ground or to a permanent foundation
1177 and which is not by its nature intended to be housed within a
1178 building structure, not later than three (3) months after the
1179 initial start-up date, to permanent business enterprises engaging
1180 in manufacturing or processing in Tier Two areas and Tier One
1181 areas (as such areas are designated in accordance with Section
1182 57-73-21), which businesses are certified by the Department of
1183 Revenue as being eligible for the exemption granted in this
1184 subsection, shall be exempt from one-half (1/2) of the taxes
1185 imposed on such transactions under this chapter.

1186 (3) Sales of component materials used in the construction of
1187 a facility, or any addition or improvement thereon, and sales or
1188 leases of machinery and equipment not later than three (3) months
1189 after the completion of construction of the facility, or any
1190 addition or improvement thereto, to be used in the building or any
1191 addition or improvement thereto, to a permanent business
1192 enterprise operating a data/information enterprise in Tier Two
1193 areas and Tier One areas (as such areas are designated in
1194 accordance with Section 57-73-21), which businesses meet minimum
1195 criteria established by the Mississippi Development Authority,



1196 shall be exempt from one-half (1/2) of the taxes imposed on such
1197 transaction under this chapter.

1198 (4) Sales of component materials used in the construction of
1199 a facility, or any addition or improvement thereto, and sales of
1200 machinery and equipment not later than three (3) months after the
1201 completion of construction of the facility, or any addition or
1202 improvement thereto, to be used in the building or any addition or
1203 improvement thereto, to technology intensive enterprises for
1204 industrial purposes in Tier Two areas and Tier One areas (as such
1205 areas are designated in accordance with Section 57-73-21), which
1206 businesses are certified by the Department of Revenue as being
1207 eligible for the exemption granted in this subsection, shall be
1208 exempt from one-half (1/2) of the taxes imposed on such
1209 transactions under this chapter. For purposes of this subsection,
1210 an enterprise must meet the criteria provided for in Section
1211 27-65-17(1)(f) in order to be considered a technology intensive
1212 enterprise.

1213 (5) (a) For purposes of this subsection:

1214 (i) "Telecommunications enterprises" shall have
1215 the meaning ascribed to such term in Section 57-73-21;

1216 (ii) "Tier One areas" mean counties designated as
1217 Tier One areas pursuant to Section 57-73-21;

1218 (iii) "Tier Two areas" mean counties designated as
1219 Tier Two areas pursuant to Section 57-73-21;



1220 (iv) "Tier Three areas" mean counties designated
1221 as Tier Three areas pursuant to Section 57-73-21; and

1222 (v) "Equipment used in the deployment of broadband
1223 technologies" means any equipment capable of being used for or in
1224 connection with the transmission of information at a rate, prior
1225 to taking into account the effects of any signal degradation, that
1226 is not less than three hundred eighty-four (384) kilobits per
1227 second in at least one (1) direction, including, but not limited
1228 to, asynchronous transfer mode switches, digital subscriber line
1229 access multiplexers, routers, servers, multiplexers, fiber optics
1230 and related equipment.

1231 (b) Sales of equipment to telecommunications
1232 enterprises after June 30, 2003, and before July 1, 2025, that is
1233 installed in Tier One areas and used in the deployment of
1234 broadband technologies shall be exempt from one-half (1/2) of the
1235 taxes imposed on such transactions under this chapter.

1236 (c) Sales of equipment to telecommunications
1237 enterprises after June 30, 2003, and before July 1, 2025, that is
1238 installed in Tier Two and Tier Three areas and used in the
1239 deployment of broadband technologies shall be exempt from the
1240 taxes imposed on such transactions under this chapter.

1241 (6) Sales of component materials used in the replacement,
1242 reconstruction or repair of a building that has been destroyed or
1243 sustained extensive damage as a result of a disaster declared by
1244 the Governor, sales of machinery and equipment to be used therein



1245 to replace machinery or equipment damaged or destroyed as a result
1246 of such disaster, including, but not limited to, manufacturing or
1247 processing machinery and equipment which is permanently attached
1248 to the ground or to a permanent foundation and which is not by its
1249 nature intended to be housed within a building structure, to
1250 enterprises that were eligible for the partial exemptions provided
1251 for in subsections (2), (3) and (4) of this section during initial
1252 construction of the building that was destroyed or damaged, which
1253 enterprises are certified by the Department of Revenue as being
1254 eligible for the partial exemption granted in this subsection,
1255 shall be exempt from one-half (1/2) of the taxes imposed on such
1256 transactions under this chapter.

1257 **SECTION 5.** Section 27-67-3, Mississippi Code of 1972, is
1258 amended as follows:

1259 27-67-3. Whenever used in this article, the words, phrases
1260 and terms shall have the meaning ascribed to them as follows:

1261 (a) "Tax Commission" or "department" means the
1262 Department of Revenue of the State of Mississippi.

1263 (b) "Commissioner" means the Commissioner of Revenue of
1264 the Department of Revenue.

1265 (c) "Person" means any individual, firm, partnership,
1266 joint venture, association, corporation, estate, trust, receiver,
1267 syndicate or any other group or combination acting as a unit and
1268 includes the plural as well as the singular in number. "Person"
1269 shall also include husband or wife, or both, where joint benefits



1270 are derived from the operation of a business taxed hereunder or
1271 where joint benefits are derived from the use of property taxed
1272 hereunder.

1273 (d) "Taxpayer" means any person liable for the payment
1274 of any tax hereunder, or liable for the collection and payment of
1275 the tax.

1276 (e) "Sale" or "purchase" means the exchange of
1277 properties for money or other consideration, and the barter of
1278 properties or products. Every closed transaction by which title
1279 to, or possession of, tangible personal property or specified
1280 digital products passes shall constitute a taxable event. A
1281 transaction whereby the possession of property or products is
1282 transferred but the seller retains title as security for payment
1283 of the selling price shall be deemed a sale.

1284 (f) "Purchase price" or "sales price" means the total
1285 amount for which tangible personal property or specified digital
1286 product is purchased or sold, valued in money, including
1287 installation and service charges, and freight charges to the point
1288 of use within this state, without any deduction for cost of
1289 property or products sold, expenses or losses, or taxes of any
1290 kind except those exempt by the sales tax law. "Purchase price"
1291 or "sales price" shall not include cash discounts allowed and
1292 taken or merchandise returned by customers when the total sales
1293 price is refunded either in cash or by credit, and shall not
1294 include amounts allowed for a trade-in of similar property or



1295 products. "Purchase price" or "sales price" does not include
1296 finance charges, carrying charges or any other addition to the
1297 selling price as a result of deferred payments by the purchaser.

1298 (g) "Lease" or "rent" means any agreement entered into
1299 for a consideration that transfers possession or control of
1300 tangible personal property or specified digital products to a
1301 person for use within this state.

1302 (h) "Value" means the estimated or assessed monetary
1303 worth of a thing or property. The value of property or products
1304 transferred into this state for sales promotion or advertising
1305 shall be an amount not less than the cost paid by the transferor
1306 or donor. The value of property or products which have been used
1307 in another state shall be determined by its cost less straight
1308 line depreciation provided that value shall never be less than
1309 twenty percent (20%) of the cost or other method acceptable to the
1310 commissioner. On property or products imported by the
1311 manufacturer thereof for rental or lease within this state, value
1312 shall be the manufactured cost of the property and freight to the
1313 place of use in Mississippi.

1314 (i) "Tangible personal property" means personal
1315 property perceptible to the human senses or by chemical analysis,
1316 as opposed to real property or intangibles. "Tangible personal
1317 property" shall include printed, mimeographed, multigraphed
1318 matter, or material reproduced in any other manner, and books,
1319 catalogs, manuals, publications or similar documents covering the



1320 services of collecting, compiling or analyzing information of any
1321 kind or nature. However, reports representing the work of persons
1322 such as lawyers, accountants, engineers and similar professionals
1323 shall not be included. "Tangible personal property" shall also
1324 include tangible advertising or sales promotion materials such as,
1325 but not limited to, displays, brochures, signs, catalogs, price
1326 lists, point of sale advertising materials and technical manuals.
1327 Tangible personal property shall also include computer software
1328 programs.

1329 (j) "Person doing business in this state," "person
1330 maintaining a place of business within this state," or any similar
1331 term means any person having within this state an office, a
1332 distribution house, a salesroom or house, a warehouse, or any
1333 other place of business, or owning personal property located in
1334 this state used by another person, or installing personal property
1335 in this state. This definition also includes any person selling
1336 or taking orders for any tangible personal property, either
1337 personally, by mail or through an employee representative,
1338 salesman, commission agent, canvasser, solicitor or independent
1339 contractor or by any other means from within the state. "Person
1340 doing business in this state" also includes any marketplace
1341 facilitator, marketplace seller, or remote seller with sales that
1342 exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in any
1343 consecutive twelve-month period. A sale made through a
1344 marketplace facilitator is a sale of the marketplace facilitator



1345 and not the sale of a marketplace seller for purposes of
1346 determining whether a person exceeds Two Hundred Fifty Thousand
1347 Dollars (\$250,000.00) in sales.

1348 Any person doing business under the terms of this article by
1349 reason of coming under any one or more of the qualifying
1350 provisions listed above shall be considered as doing business on
1351 all transactions involving sales to persons within this state.

1352 (k) "Use" or "consumption" means the first use or
1353 intended use within this state of tangible personal property or
1354 specified digital product and shall include rental or loan by
1355 owners or use by lessees or other persons receiving benefits from
1356 use of the property or product. "Use" or "consumption" shall
1357 include the benefit realized or to be realized by persons
1358 importing or causing to be imported into this state tangible
1359 advertising or sales promotion materials.

1360 (l) "Storage" means keeping tangible personal property
1361 or specified digital product in this state for subsequent use or
1362 consumption in this state.

1363 (m) "Specified digital products" shall have the meaning
1364 ascribed to such term in Section 27-65-26.

1365 (n) "Marketplace facilitator" means any person who
1366 facilitates a retail sale by a seller by:

1367 (i) Listing or advertising for sale by the
1368 retailer in any forum, tangible personal property, services or
1369 digital goods that are subject to tax under this chapter; and



1370 (ii) Either directly or indirectly through
1371 agreements or arrangements with third parties collecting payment
1372 from the customer and transmitting that payment to the retailer
1373 regardless of whether the marketplace provider receives
1374 compensation or other consideration in exchange for its service.

1375 (o) "Marketplace seller" means a seller that makes
1376 sales through any physical or electronic marketplace owned,
1377 operated, or controlled by a marketplace facilitator, even if such
1378 seller would not have been required to collect and remit sales tax
1379 had the sale not been made through such marketplace.

1380 (p) "Remote seller" means a person, other than a
1381 marketplace facilitator, that does not maintain a place of
1382 business in this state and that through a forum sells tangible
1383 personal property, taxable services or specified digital products,
1384 the sale or use of which is subject to the tax imposed by this
1385 chapter.

1386 (q) "Software" shall have the meaning ascribed in
1387 Section 27-65-3.

1388 **SECTION 6.** Section 27-67-7, Mississippi Code of 1972, is
1389 amended as follows:

1390 27-67-7. The tax levied by this article shall not be
1391 collected in the following instances:

1392 (a) On the use, storage or consumption of any tangible
1393 personal property or specified digital products if the sale
1394 thereof has already been included in the measure of this tax or



1395 the tax imposed by Section 27-65-20 or Section 27-65-17, 27-65-19,
1396 27-65-25 or 27-65-26, or has already been included in the measure
1397 of a sales tax imposed by another state in which the property or
1398 products were sold or use tax imposed by some other state in which
1399 the property was used. If the rate of sales or use tax paid
1400 another state by the person using the property or products in
1401 Mississippi is not equal to or greater than the rate imposed by
1402 this article, then the user or purchaser shall apply the
1403 difference in these rates to the purchase price or value of the
1404 property or products and pay to the commissioner the amount of tax
1405 thus computed. Persons using business property or products in
1406 this state which has been used by them in other states shall be
1407 entitled to a credit for sales and/or use tax paid to other states
1408 equal to the aggregate of all such state rates multiplied by the
1409 value of the property or products at the time of importation into
1410 this state. Persons using business property or products in this
1411 state which were acquired from another person who used it in other
1412 states shall be entitled to a credit equal to the applicable rate
1413 in the state of last prior use multiplied by the value of the
1414 property or products at the time of importation into this state.
1415 However, credit for use tax paid to another state shall not apply
1416 on the purchase price of tangible personal property or specified
1417 digital products that have been only stored or warehoused in the
1418 other state and the first use of the property or products occurs
1419 in Mississippi. Provided further, that credit for sales or use



1420 tax paid to another state shall not apply on the purchase price or
1421 value of automobiles, trucks, truck-tractors, semitrailers,
1422 trailers, boats, travel trailers, motorcycles and all-terrain
1423 cycles imported and first used in Mississippi.

1424 Credit for sales or use tax paid to another state as provided
1425 in this paragraph (a) shall be evidenced by an invoice clearly and
1426 correctly showing the amount of the tax as a separate item, and no
1427 credit shall be allowed otherwise.

1428 (b) On the use, storage or consumption of tangible
1429 personal property or specified digital products to the extent that
1430 sales of similar property or products in Mississippi are either
1431 excluded or specifically exempt from sales tax or are taxed at the
1432 wholesale rate.

1433 This exemption shall be confined to the use of property or
1434 products the sale of which is an itemized exemption in the
1435 Mississippi Sales Tax Law, or to use by persons who are listed in
1436 the Mississippi Sales Tax Law as being exempt from sales tax.

1437 (c) On the use, storage or consumption of tangible
1438 personal property or specified digital products brought into this
1439 state by a nonresident for his or her use or enjoyment while
1440 temporarily within the state, but not including tangible personal
1441 property or specified digital products brought in for use in
1442 connection with a business activity. This exemption shall not
1443 apply to property or products which remain situated in this state
1444 for the repeated use, storage or consumption by out-of-state



1445 visitors, or which is acquired by visitors and first used in this
1446 state.

1447 (d) On the use of a motor vehicle for which a
1448 registration is required by the motor vehicle law, when such motor
1449 vehicle was purchased by a natural person for his personal or
1450 family use while such person was a bona fide resident of another
1451 state and who thereafter became a resident of this state, but not
1452 to include a motor vehicle which is transferred by the owner for
1453 commercial use or for use by another person within this state.

1454 (e) On the use of personal and household effects by a
1455 natural person acquired while the person was a bona fide resident
1456 of another state, and who thereafter became a resident of this
1457 state.

1458 (f) On the use or rental of motion picture film,
1459 video-audio tapes, phonograph records or specified digital
1460 products for exhibition either by a person paying Mississippi
1461 sales tax on gross income from admissions for the exhibitions or
1462 by a person operating a television or radio broadcasting station.

1463 (g) On any vehicle purchased in another state for use
1464 outside of this state by a Mississippi citizen serving in the
1465 Armed Forces and stationed in another state who elects to license
1466 the vehicle in Mississippi.

1467 (h) On the cost or value and on the use, storage and
1468 consumption of rail rolling stock and component parts thereof.



1469 (i) On the use, storage or consumption of literature,
1470 video tapes, photographic slides or specified digital products
1471 used by religious institutions for the propagation of their creeds
1472 or for carrying on their customary nonprofit religious activities,
1473 and on the use of any tangible personal property or specified
1474 digital products purchased and first used in another state by
1475 religious institutions for the propagation of their creeds or for
1476 carrying on their customary nonprofit religious activities.
1477 "Religious institution," for the purpose of this exemption, means
1478 any religious institution granted an exemption under 26 USCS
1479 Section 501(c) (3). Any exemption under this paragraph obtained by
1480 fraud, misstatement or misrepresentation shall be cancelled by
1481 the * * * Department of Revenue, and the person committing the
1482 fraud, misstatement or misrepresentation shall be liable for
1483 prosecution for fraud on the assessment, and, on conviction, shall
1484 be fined not less than One Thousand Dollars (\$1,000.00), or
1485 punished by imprisonment in the State Penitentiary for a term not
1486 to exceed five (5) years, or both, within the discretion of the
1487 court.

1488 (j) The tax on the cost or value of farm machinery used
1489 in the harvesting of agricultural products shall be limited to the
1490 ratio of use within this state to the life of the property.

1491 (k) [Repealed]

1492 (l) On the use of machinery and equipment; special
1493 tooling such as dies, molds, jigs and similar items treated as



1494 special tooling for federal income tax purposes; or repair parts
1495 therefor or replacements thereof; or repair services thereon; by a
1496 taxpayer other than the manufacturer when the manufacturer still
1497 holds title to the items and the items are purchased by the
1498 manufacturer as a part of a project as defined in Section
1499 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section
1500 57-75-5(f)(xxii).

1501 (m) On the use, storage or consumption of utilities
1502 purchased by a manufacturer described in Section 27-65-101(x).

1503 (n) On the use, storage or consumption of utilities
1504 purchased by an enterprise described in Section 27-65-101(cc).

1505 (o) On the use, storage or consumption of jet aircraft
1506 engines that are temporarily located within the State of
1507 Mississippi and are brought into the state for research and/or
1508 testing purposes at a jet aircraft engine research and testing
1509 facility.

1510 (p) On the use by a person or from a location in this
1511 state of software, data or information in electronic format that
1512 is maintained on a computer, server or equipment located outside
1513 the state and accessed via the internet.

1514 **SECTION 7.** This act shall take effect and be in force from
1515 and after its passage and shall apply to all tax periods that are
1516 open to audit, assessment, or claims for refund or credit as of
1517 such date, and shall stand repealed on January 26, 2022.

