

By: Representative Lamar

To: Ways and Means

HOUSE BILL NO. 968

1 AN ACT TO EXEMPT FROM SALES TAXATION THE SALE, PURCHASE,
2 ACQUISITION, USE, STORAGE, OR CONSUMPTION BY A BUSINESS ENTERPRISE
3 OF ANY COMPUTER SOFTWARE OR COMPUTER SOFTWARE SERVICE FOR USE AS A
4 BUSINESS INPUT; TO DEFINE THE TERMS "COMPUTER SOFTWARE", "COMPUTER
5 SOFTWARE SERVICE", "BUSINESS ENTERPRISE" AND "BUSINESS INPUT" FOR
6 THE PURPOSES OF SUCH EXEMPTION; TO AMEND SECTION 27-65-3,
7 MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERMS
8 "GROSS PROCEEDS OF SALE" AND "TANGIBLE PERSONAL PROPERTY" UNDER
9 THE STATE SALES TAX LAW; TO AMEND SECTION 27-65-7, MISSISSIPPI
10 CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM "RETAIL SALE"
11 UNDER THE STATE SALES TAX LAW; TO AMEND SECTION 27-65-19,
12 MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM
13 "TELECOMMUNICATIONS SERVICE" FOR PURPOSES OF THE SALES TAX IMPOSED
14 ON TELECOMMUNICATIONS SERVICES; TO AMEND SECTION 27-65-23,
15 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE SALES TAX IMPOSED ON
16 VARIOUS SERVICES APPLIES TO SERVICES THAT ARE ACTUALLY PERFORMED
17 WITHIN THIS STATE; TO AMEND SECTION 27-65-93, MISSISSIPPI CODE OF
18 1972, TO PROVIDE THAT THE COMMISSIONER OF REVENUE SHALL ADOPT
19 RULES AND REGULATIONS PROVIDING FOR THE ISSUANCE OF A PERMIT TO
20 PURCHASERS AND USERS OF COMPUTER SOFTWARE OR COMPUTER SOFTWARE
21 SERVICES TO PURCHASE SUCH ITEMS AND SERVICES WITHOUT THE PAYMENT
22 TO THE VENDOR OF SALES TAX AND USE TAX; TO AMEND SECTION 27-67-3,
23 MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM
24 "TANGIBLE PERSONAL PROPERTY" UNDER THE STATE USE TAX LAW; TO
25 DEFINE THE TERM "COMPUTER SOFTWARE" UNDER THE STATE USE TAX LAW;
26 TO AMEND SECTION 27-67-5, MISSISSIPPI CODE OF 1972, TO REVISE
27 CERTAIN PROVISIONS REGARDING THE IMPOSITION OF USE TAX; AND FOR
28 RELATED PURPOSES.

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

30 **SECTION 1.** The sale, purchase, acquisition, use, storage, or
31 consumption by a business enterprise of any computer software or



32 computer software service for use as a business input shall be
33 exempt from the sales tax imposed under this chapter. For the
34 purposes of this section, the following definitions shall apply:

35 (a) "Computer software" shall mean any computer program
36 or routine, or any set of one (1) or more programs or routines,
37 which are used or intended to cause one or more computers, pieces
38 of computer-related peripheral equipment, automatic processing
39 equipment, or any combination thereof, to perform a task or set of
40 tasks. Computer software may be contained in or on magnetic
41 tapes, discs or other tangible or electronic media or downloaded
42 online.

43 (b) "Computer software service" shall mean the
44 technical design and programming of computer software and includes
45 installing, configuring, debugging, modifying, testing, or
46 troubleshooting computer hardware, networks, programs or computer
47 software.

48 (c) "Business enterprise" shall mean any person or
49 organization constituting a "business" or "doing business" as
50 defined in Section 27-65-9, regardless of whether such business
51 shall be conducted in a separate legal entity or in an individual
52 capacity. Business enterprise shall also include any activity not
53 conducted for profit by any nonprofit corporation or entity that
54 is exempt from federal or Mississippi income taxes. It shall not
55 be necessary that a person or organization be registered for sales
56 or use taxes or to possess a sales tax permit in order to



57 constitute a business enterprise, but any person or organization
58 so registered or permitted shall constitute a business enterprise.

59 (d) "Business input" shall mean any expense incurred or
60 item created, purchased, or acquired in any manner by a business
61 enterprise that is ordinary and necessary to carrying on any trade
62 or business, for the production of any item, the performance of
63 any service, or the conduct of any nonprofit activity, regardless
64 of whether such trade, business, item, service, or activity is
65 taxable. An item shall be presumed to constitute a business input
66 if is it eligible for deduction, capitalization, depreciation, or
67 amortization for federal or Mississippi income tax purposes, or if
68 such item would be so eligible if the business enterprise were
69 subject to federal or Mississippi income tax. An item may qualify
70 as a business input notwithstanding that it may be incurred in
71 connection with earning and distributing nontaxable income.

72 **SECTION 2.** Section 27-65-3, Mississippi Code of 1972, is
73 amended as follows:

74 27-65-3. The words, terms and phrases, when used in this
75 chapter, shall have the meanings ascribed to them herein.

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

78 (b) "Commissioner" means the Commissioner of Revenue of
79 the Department of Revenue.

80 (c) "Person" means and includes any individual, firm,
81 copartnership, joint venture, association, corporation, promoter



82 of a temporary event, estate, trust or other group or combination
83 acting as a unit, and includes the plural as well as the singular
84 in number. "Person" shall include husband or wife, or both, where
85 joint benefits are derived from the operation of a business taxed
86 hereunder. "Person" shall also include any state, county,
87 municipal or other agency or association engaging in a business
88 taxable under this chapter.

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

91 (e) "Taxpayer" means any person liable for or having
92 paid any tax to the State of Mississippi under the provisions of
93 this chapter. A taxpayer is required to obtain a sales tax permit
94 under Section 27-65-27 before engaging in business in this state.
95 If a taxpayer fails to obtain a sales tax permit before engaging
96 in business in this state, the taxpayer shall pay the retail rate
97 on all purchases of tangible personal property and/or services in
98 this state, even if purchased for resale. Upon obtaining a sales
99 tax permit, a previously unregistered taxpayer shall file sales
100 tax returns for all tax periods during which he engaged in
101 business in this state without a sales tax permit, and report and
102 pay the sales tax accruing from his operation during this period
103 and any applicable penalties and interest. On such return, the
104 taxpayer may take a credit for any sales taxes paid during the
105 period he operated without a sales tax permit on a purchase that
106 would have constituted a wholesale sale if the taxpayer had a



107 sales tax permit at the time of the purchase and if proper
108 documentation exists to substantiate a wholesale sale. This
109 credit may also be allowed in any audit of the taxpayer. Any
110 penalties and interest owed by the taxpayer on the return or in an
111 audit for a period during which he operated without a sales tax
112 permit may be determined based on the sales tax accruing from the
113 taxpayer's operation for that period after the taking of this
114 credit.

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

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

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

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

129 (ii) The situs of wholesale sales of tangible
130 personal property taxed at wholesale rates, the amount of which is
131 allowed as a credit against the sales tax liability of the



132 retailer, shall be the same as the location of the business of the
133 retailer receiving the credit.

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

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

141 (g) "Delivery charges" shall mean and include any
142 expenses incurred by a seller in acquiring merchandise for sale in
143 the regular course of business commonly known as "freight-in" or
144 "transportation costs-in." "Delivery charges" also include any
145 charges made by the seller for delivery of property sold to the
146 purchaser.

147 (h) "Gross proceeds of sales" means the value
148 proceeding or accruing from the full sale price of tangible
149 personal property, including installation charges, without any
150 deduction for delivery charges, cost of property sold, other
151 expenses or losses, or taxes of any kind except those expressly
152 exempt by this chapter.

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



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

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

160 (iii) The amount of the consideration attributable
161 to the sale is fixed and determinable by the seller at the time of
162 the sale of the item to the purchaser; and

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

164 1. The purchaser presents a coupon,
165 certificate or other documentation to the seller to claim a price
166 reduction or discount where the coupon, certificate or
167 documentation is authorized, distributed or granted by a third
168 party with the understanding that the third party will reimburse
169 any seller to whom the coupon, certificate or documentation is
170 presented;

171 2. The purchaser identified himself or
172 herself to the seller as a member of a group or organization
173 entitled to a price reduction or discount (a "preferred customer"
174 card that is available to any patron does not constitute
175 membership in such a group); or

176 3. The price reduction or discount is
177 identified as a third-party price reduction or discount on the
178 invoice received by the purchaser or on a coupon, certificate or
179 other documentation presented by the purchaser.



180 Where a trade-in is taken as part payment on tangible
181 personal property sold, "gross proceeds of sales" shall include
182 only the difference received between the selling price of the
183 tangible personal property and the amount allowed for a trade-in
184 of property of the same kind. When the trade-in is subsequently
185 sold, the selling price thereof shall be included in "gross
186 proceeds of sales."

187 "Gross proceeds of sales" shall include the value of any
188 goods, wares, merchandise or property purchased at wholesale or
189 manufactured, and any mineral or natural resources produced, which
190 are withdrawn or used from an established business or from the
191 stock in trade for consumption or any other use in the business or
192 by the owner. However, "gross proceeds of sales" does not include
193 meals prepared by a restaurant and provided at no charge to
194 employees of the restaurant or donated to a charitable
195 organization that regularly provides food to the needy and the
196 indigent and which has been granted exemption from the federal
197 income tax as an organization described in Section 501(c)(3) of
198 the Internal Revenue Code of 1986.

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

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



204 "Gross proceeds of sales" does not include receipts
205 attributable to the sale of any item or performance of any service
206 excluded from sales tax pursuant to Section 1 of this act.

207 "Gross proceeds of sales" does not include receipts
208 attributable to the sale of electronically stored or maintained
209 data, any data processing and data information services, or the
210 storage, maintenance, or use of such data.

211 (i) "Gross income" means the total charges for service
212 or the total receipts (actual or accrued) derived from trades,
213 business or commerce by reason of the investment of capital in the
214 business engaged in, including the sale or rental of tangible
215 personal property, compensation for labor and services performed,
216 and including the receipts from the sales of property retained as
217 toll, without any deduction for rebates, cost of property sold,
218 cost of materials used, labor costs, interest paid, losses or any
219 expense whatever.

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

223 However, "gross income" or "gross proceeds of sales" shall
224 not be construed to include the value of goods returned by
225 customers when the total sale price is refunded either in cash or
226 by credit, or cash discounts allowed and taken on sales. Cash
227 discounts shall not include the value of trading stamps given with
228 a sale of property.



229 (j) "Tangible personal property" means personal
230 property perceptible to the human senses or by chemical analysis
231 as opposed to real property or intangibles and shall include
232 property sold on an installed basis which may become a part of
233 real or personal property. "Tangible personal property" shall
234 also include computer software as defined in Section 1 of this
235 act, but shall not include electronically stored or maintained
236 data.

237 (k) "Installation charges" shall mean and include the
238 charge for the application of tangible personal property to real
239 or personal property without regard to whether or not it becomes a
240 part of the real property or retains its personal property
241 classification. It shall include, but not be limited to, sales in
242 place of roofing, tile, glass, carpets, drapes, fences, awnings,
243 window air-conditioning units, gasoline pumps, window guards,
244 floor coverings, carports, store fixtures, aluminum and plastic
245 siding, tombstones and similar personal property.

246 (l) "Newspaper" means a periodical which:

247 (i) Is not published primarily for advertising
248 purposes and has not contained more than seventy-five percent
249 (75%) advertising in more than one-half (1/2) of its issues during
250 any consecutive twelve-month period excluding separate advertising
251 supplements inserted into but separately identifiable from any
252 regular issue or issues;



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

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

262 (iv) Is issued from a known office of publication,
263 which shall be the principal public business office of the
264 newspaper and need not be the place at which the periodical is
265 printed and a newspaper shall be deemed to be "published" at the
266 place where its known office of publication is located;

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

271 (vi) Is originated and published for the
272 dissemination of current news and intelligence of varied, broad
273 and general public interest, announcements and notices, opinions
274 as editorials on a regular or irregular basis, and advertising and
275 miscellaneous reading matter.

276 The term "newspaper" shall include periodicals which are
277 designed primarily for free circulation or for circulation at



278 nominal rates as well as those which are designed for circulation
279 at more than a nominal rate.

280 The term "newspaper" shall not include a publication or
281 periodical which is published, sponsored by, is directly supported
282 financially by, or is published to further the interests of, or is
283 directed to, or has a circulation restricted, in whole or in part,
284 to any particular sect, denomination, labor or fraternal
285 organization or other special group or class or citizens.

286 For purposes of this paragraph, a periodical designed
287 primarily for free circulation or circulation at nominal rates
288 shall not be considered to be a newspaper unless such periodical
289 has made an application for such status to the department in the
290 manner prescribed by the department and has provided to the
291 department documentation satisfactory to the department showing
292 that such periodical meets the requirements of the definition of
293 the term "newspaper." However, if such periodical has been
294 determined to be a newspaper under action taken by the department
295 on or before April 11, 1996, such periodical shall be considered
296 to be a newspaper without the necessity of applying for such
297 status. A determination by the Department of Revenue that a
298 publication is a newspaper shall be limited to the application of
299 this chapter and shall not establish that the publication is a
300 newspaper for any other purpose.

301 (m) "MPC" or "Material Purchase Certificate" means a
302 certificate for which a person that is liable for the tax levy



303 under Section 27-65-21 can apply and obtain from the commissioner,
304 and when issued, entitles the holder to purchase materials and
305 services that are to become a component part of a structure to be
306 erected or repaired with no tax due. Any person taxable under
307 Section 27-65-21 who obtains an MPC for a project and purchases
308 materials and services in this state that are to become a
309 component part of a structure being erected or repaired in the
310 project and at any time pays sales tax on these purchases may,
311 after obtaining the MPC for the project, take a credit against his
312 sales taxes for the sales tax paid on these purchases if proper
313 documentation exists to substantiate the payment of the sales tax
314 on the purchase of component materials and services. This credit
315 may also be allowed in any audit of the taxpayer. Any penalties
316 and interest owed by the taxpayer on the return or in the audit
317 where this credit is taken may be determined based on the sales
318 tax due after the taking of this credit.

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

321 27-65-7. "Retailer" shall apply to a person making retail
322 sales through vending machines, by maintaining a store, or
323 operating as a transient vendor, or renting or leasing tangible
324 personal property. Retailer also includes persons who facilitate
325 the sale of services or tangible personal property that belongs to
326 a third party.



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

331 "Retail sale" shall include the value of any tangible
332 personal property manufactured or purchased at wholesale which is
333 withdrawn from the business or stock in trade and is used or
334 consumed within this state in the business or by the owner or by
335 any other person, whether or not in the regular course of business
336 or trade.

337 "Retail sale" shall also include a sale invoiced to a
338 retailer but delivered to another person who pays for the
339 merchandise upon taking possession.

340 "Retail sale" shall also include a sale made or facilitated
341 by a person regularly engaged in the sale or facilitation of sales
342 of services or tangible personal property. "Retail sale" does not
343 include a sale by a third-party food delivery service that
344 delivers food from an unrelated restaurant to a customer,
345 regardless of whether the customer orders and pays for the food
346 through the delivery service or whether the delivery service adds
347 fees or upcharges to the price of the food.

348 "Retail sale" does not include a sale of any item or
349 performance of any service excluded from sales tax pursuant to
350 Section 1 of this act.



351 "Retail sale" does not include the sale of electronically
352 stored or maintained data, any data processing and data
353 information services, or the storage, maintenance or use of such
354 data.

355 **SECTION 4.** Section 27-65-19, Mississippi Code of 1972, is
356 amended as follows:

357 27-65-19. (1) (a) (i) Except as otherwise provided in
358 this subsection, upon every person selling to consumers,
359 electricity, current, power, potable water, steam, coal, natural
360 gas, liquefied petroleum gas or other fuel, there is hereby
361 levied, assessed and shall be collected a tax equal to seven
362 percent (7%) of the gross income of the business. Provided, gross
363 income from sales to consumers of electricity, current, power,
364 natural gas, liquefied petroleum gas or other fuel for residential
365 heating, lighting or other residential noncommercial or
366 nonagricultural use, and sales of potable water for residential,
367 noncommercial or nonagricultural use shall be excluded from
368 taxable gross income of the business. Provided further, upon
369 every such seller using electricity, current, power, potable
370 water, steam, coal, natural gas, liquefied petroleum gas or other
371 fuel for nonindustrial purposes, there is hereby levied, assessed
372 and shall be collected a tax equal to seven percent (7%) of the
373 cost or value of the product or service used.

374 (ii) Gross income from sales to a church that is
375 exempt from federal income taxation under 26 USCS Section



376 501(c) (3) of electricity, current, power, natural gas, liquefied
377 petroleum gas or other fuel for heating, lighting or other use,
378 and sales of potable water to such a church shall be excluded from
379 taxable gross income of the business if the electricity, current,
380 power, natural gas, liquefied petroleum gas or potable water is
381 utilized on property that is primarily used for religious or
382 educational purposes.

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

388 1. Use in an enhanced oil recovery project,
389 including, but not limited to, use for cycling, repressuring or
390 lifting of oil; or

391 2. Permanent sequestration in a geological
392 formation.

393 (ii) The one and one-half percent (1-1/2%) rate
394 provided for in this subsection shall apply to electricity,
395 current, power, steam, coal, natural gas, liquefied petroleum gas
396 or other fuel that is sold to a producer of oil and gas for use
397 directly in enhanced oil recovery using carbon dioxide and/or the
398 permanent sequestration of carbon dioxide in a geological
399 formation.



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

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

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

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

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

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

417 * * * ~~5. A tax equal to seven percent (7%) of~~
418 ~~the gross income received from all charges for products delivered~~
419 ~~electronically, including, but not limited to, software, music,~~
420 ~~games, reading materials or ring tones.~~

421 (ii) A person, upon proof that he has paid a tax
422 in another state on an event described in subparagraph (i) of this
423 paragraph (d), shall be allowed a credit against the tax imposed
424 in this paragraph (d) on interstate telecommunications service



425 charges to the extent that the amount of such tax is properly due
426 and actually paid in such other state and to the extent that the
427 rate of sales tax imposed by and paid in such other state does not
428 exceed the rate of sales tax imposed by this paragraph (d).

429 (iii) Charges by one (1) telecommunications
430 provider to another telecommunications provider holding a permit
431 issued under Section 27-65-27 for services that are resold by such
432 other telecommunications provider, including, but not limited to,
433 access charges, shall not be subject to the tax levied pursuant to
434 this paragraph (d).

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

436 1. "Telecommunications service" means the
437 electronic transmission, conveyance or routing of voice, data,
438 audio, video or any other information or signals to a point, or
439 between points. The term "telecommunications service" includes
440 such transmission, conveyance or routing in which computer
441 processing applications are used to act on the form, code or
442 protocol of the content for purposes of transmission, conveyance
443 or routing without regard to whether such service is referred to
444 as voice over Internet protocol services or is classified by the
445 Federal Communications Commission as enhanced or value added. The
446 term "telecommunications service" shall not include:

447 a. Data processing and information
448 services that allow data to be generated, acquired, stored,
449 processed or retrieved and delivered by an electronic transmission



450 to a purchaser where such purchaser's primary purpose for the
451 underlying transaction is the processed data or information;

452 b. Installation or maintenance of wiring
453 or equipment on a customer's premises;

454 c. Tangible personal property;

455 d. Advertising, including, but not
456 limited to, directory advertising;

457 e. Billing and collection services
458 provided to third parties;

459 f. Internet access service;

460 g. Radio and television audio and video
461 programming services regardless of the medium, including the
462 furnishing of transmission, conveyance and routing of such
463 services by the programming service provider. Radio and
464 television audio and video programming services shall include, but
465 not be limited to, cable service as defined in 47 USCS 522(6) and
466 audio and video programming services delivered by commercial
467 mobile radio service providers, as defined in 47 CFR 20.3;

468 h. Ancillary services; or

469 i. Digital products delivered
470 electronically, including, but not limited to, computer software,
471 computer software services, electronically stored or maintained
472 data, music, video, reading materials, specified digital products
473 or ring tones.



474 2. "Ancillary services" means services that
475 are associated with or incidental to the provision of
476 telecommunications services, including, but not limited to,
477 detailed telecommunications billing, directory assistance,
478 vertical service and voice mail service.

479 a. "Conference bridging" means an
480 ancillary service that links two (2) or more participants of an
481 audio or video conference call and may include the provision of a
482 telephone number. Conference bridging does not include the
483 telecommunications services used to reach the conference bridge.

484 b. "Detailed telecommunications billing
485 service" means an ancillary service of separately stating
486 information pertaining to individual calls on a customer's billing
487 statement.

488 c. "Directory assistance" means an
489 ancillary service of providing telephone number information and/or
490 address information.

491 d. "Vertical service" means an ancillary
492 service that is offered in connection with one or more
493 telecommunications services, which offers advanced calling
494 features that allow customers to identify callers and to manage
495 multiple calls and call connections, including conference bridging
496 services.

497 e. "Voice mail service" means an
498 ancillary service that enables the customer to store, send or



499 receive recorded messages. Voice mail service does not include
500 any vertical services that the customer may be required to have in
501 order to utilize the voice mail service.

502 3. "Intrastate" means telecommunications
503 service that originates in one (1) United States state or United
504 States territory or possession, and terminates in the same United
505 States state or United States territory or possession.

506 4. "Interstate" means a telecommunications
507 service that originates in one (1) United States state or United
508 States territory or possession, and terminates in a different
509 United States state or United States territory or possession.

510 5. "International" means a telecommunications
511 service that originates or terminates in the United States and
512 terminates or originates outside the United States, respectively.

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

515 1. Except for the defined telecommunications
516 services in item 3 of this subparagraph, the sales of
517 telecommunications services sold on a call-by-call basis shall be
518 sourced to:

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

521 b. Each level of taxing jurisdiction
522 where the call either originates or terminates and in which the
523 service address is also located.



524 2. Except for the defined telecommunications
525 services in item 3 of this subparagraph, a sale of
526 telecommunications services sold on a basis other than a
527 call-by-call basis, is sourced to the customer's place of primary
528 use.

529 3. The sale of the following
530 telecommunications services shall be sourced to each level of
531 taxing jurisdiction as follows:

532 a. A sale of mobile telecommunications
533 services other than air-to-ground radiotelephone service and
534 prepaid calling service is sourced to the customer's place of
535 primary use as required by the Mobile Telecommunication Sourcing
536 Act.

537 A. A home service provider shall be
538 responsible for obtaining and maintaining the customer's place of
539 primary use. The home service provider shall be entitled to rely
540 on the applicable residential or business street address supplied
541 by such customer, if the home service provider's reliance is in
542 good faith; and the home service provider shall be held harmless
543 from liability for any additional taxes based on a different
544 determination of the place of primary use for taxes that are
545 customarily passed on to the customer as a separate itemized
546 charge. A home service provider shall be allowed to treat the
547 address used for purposes of the tax levied by this chapter for
548 any customer under a service contract in effect on August 1, 2002,



549 as that customer's place of primary use for the remaining term of
550 such service contract or agreement, excluding any extension or
551 renewal of such service contract or agreement. Month-to-month
552 services provided after the expiration of a contract shall be
553 treated as an extension or renewal of such contract or agreement.

554 B. If the commissioner determines
555 that the address used by a home service provider as a customer's
556 place of primary use does not meet the definition of the term
557 "place of primary use" as defined in subitem a.A. of this item 3,
558 the commissioner shall give binding notice to the home service
559 provider to change the place of primary use on a prospective basis
560 from the date of notice of determination; however, the customer
561 shall have the opportunity, prior to such notice of determination,
562 to demonstrate that such address satisfies the definition.

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

568 b. A sale of postpaid calling service is
569 sourced to the origination point of the telecommunications signal
570 as first identified by either:

571 A. The seller's telecommunications
572 system; or



573 B. Information received by the
574 seller from its service provider, where the system used to
575 transport such signals is not that of the seller.

576 c. A sale of a prepaid calling service
577 or prepaid wireless calling service shall be subject to the tax
578 imposed by this paragraph if the sale takes place in this state.
579 If the customer physically purchases a prepaid calling service or
580 prepaid wireless calling service at the vendor's place of
581 business, the sale is deemed to take place at the vendor's place
582 of business. If the customer does not physically purchase the
583 service at the vendor's place of business, the sale of a prepaid
584 calling card or prepaid wireless calling card is deemed to take
585 place at the first of the following locations that applies to the
586 sale:

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

589 B. The customer's billing address;

590 C. Any other address of the
591 customer that is known by the vendor; or

592 D. The address of the vendor, or
593 alternatively, in the case of a prepaid wireless calling service,
594 the location associated with the mobile telephone number.

595 4. A sale of a private communication service
596 is sourced as follows:



597 a. Service for a separate charge related
598 to a customer channel termination point is sourced to each level
599 of jurisdiction in which such customer channel termination point
600 is located.

601 b. Service where all customer
602 termination points are located entirely within one (1)
603 jurisdiction or levels of jurisdiction is sourced in such
604 jurisdiction in which the customer channel termination points are
605 located.

606 c. Service for segments of a channel
607 between two (2) customer channel termination points located in
608 different jurisdictions and which segments of a channel are
609 separately charged is sourced fifty percent (50%) in each level of
610 jurisdiction in which the customer channel termination points are
611 located.

612 d. Service for segments of a channel
613 located in more than one (1) jurisdiction or levels of
614 jurisdiction and which segments are not separately billed is
615 sourced in each jurisdiction based on the percentage determined by
616 dividing the number of customer channel termination points in such
617 jurisdiction by the total number of customer channel termination
618 points.

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



621 (vi) For purposes of subparagraph (v) of this
622 paragraph (d):

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

627 2. "Call-by-call basis" means any method of
628 charging for telecommunications services where the price is
629 measured by individual calls.

630 3. "Communications channel" means a physical
631 or virtual path of communications over which signals are
632 transmitted between or among customer channel termination points.

633 4. "Customer" means the person or entity that
634 contracts with the seller of telecommunications services. If the
635 end user of telecommunications services is not the contracting
636 party, the end user of the telecommunications service is the
637 customer of the telecommunications service. Customer does not
638 include a reseller of telecommunications service or for mobile
639 telecommunications service of a serving carrier under an agreement
640 to serve the customer outside the home service provider's licensed
641 service area.

642 5. "Customer channel termination point" means
643 the location where the customer either inputs or receives the
644 communications.



645 6. "End user" means the person who utilizes
646 the telecommunications service. In the case of an entity, "end
647 user" means the individual who utilizes the service on behalf of
648 the entity.

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

652 8. "Mobile telecommunications service" has
653 the meaning ascribed to such term in Section 124(7) of Public Law
654 106-252 (Mobile Telecommunications Sourcing Act).

655 9. "Place of primary use" means the street
656 address representative of where the customer's use of the
657 telecommunications service primarily occurs, which must be the
658 residential street address or the primary business street address
659 of the customer. In the case of mobile telecommunications
660 services, the place of primary use must be within the licensed
661 service area of the home service provider.

662 10. "Post-paid calling service" means the
663 telecommunications service obtained by making a payment on a
664 call-by-call basis either through the use of a credit card or
665 payment mechanism such as a bank card, travel card, credit card or
666 debit card, or by charge made to a telephone number which is not
667 associated with the origination or termination of the
668 telecommunications service. A post-paid calling service includes
669 a telecommunications service, except a prepaid wireless calling



670 service that would be a prepaid calling service except it is not
671 exclusively a telecommunications service.

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

678 12. "Prepaid wireless calling service" means
679 a telecommunications service that provides the right to utilize
680 mobile wireless service as well as other nontelecommunications
681 services, including the download of digital products delivered
682 electronically, content and ancillary service, which must be paid
683 for in advance that is sold in predetermined units or dollars of
684 which the number declines with use in a known amount.

685 13. "Private communication service" means a
686 telecommunications service that entitles the customer to exclusive
687 or priority use of a communications channel or group of channels
688 between or among termination points, regardless of the manner in
689 which such channel or channels are connected, and includes
690 switching capacity, extension lines, stations and any other
691 associated services that are provided in connection with the use
692 of such channel or channels.

693 14. "Service address" means:



694 a. The location of the
695 telecommunications equipment to which a customer's call is charged
696 and from which the call originates or terminates, regardless of
697 where the call is billed or paid.

698 b. If the location in subitem a of this
699 item 14 is not known, the origination point of the signal of the
700 telecommunications services first identified by either the
701 seller's telecommunications system or in information received by
702 the seller from its service provider, where the system used to
703 transport such signals is not that of the seller.

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

707 (vii) 1. For purposes of this subparagraph (vii),
708 "bundled transaction" means a transaction that consists of
709 distinct and identifiable properties or services which are sold
710 for a single nonitemized price but which are treated differently
711 for tax purposes.

712 2. In the case of a bundled transaction that
713 includes telecommunications services, ancillary services, Internet
714 access, or audio or video programming services taxed under this
715 chapter in which the price of the bundled transaction is
716 attributable to properties or services that are taxable and
717 nontaxable, the portion of the price that is attributable to any
718 nontaxable property or service shall be subject to the tax unless



719 the provider can reasonably identify that portion from its books
720 and records kept in the regular course of business.

721 3. In the case of a bundled transaction that
722 includes telecommunications services, ancillary services, Internet
723 access, audio or video programming services subject to tax under
724 this chapter in which the price is attributable to properties or
725 services that are subject to the tax but the tax revenue from the
726 different properties or services are dedicated to different funds
727 or purposes, the provider shall allocate the price among the
728 properties or services:

729 a. By reasonably identifying the portion
730 of the price attributable to each of the properties and services
731 from its books and records kept in the regular course of business;
732 or

733 b. Based on a reasonable allocation
734 methodology approved by the department.

735 4. This subparagraph (vii) shall not create a
736 right of action for a customer to require that the provider or the
737 department, for purposes of determining the amount of tax
738 applicable to a bundled transaction, allocate the price to the
739 different portions of the transaction in order to minimize the
740 amount of tax charged to the customer. A customer shall not be
741 entitled to rely on the fact that a portion of the price is
742 attributable to properties or services not subject to tax unless
743 the provider elects, after receiving a written request from the



744 customer in the form required by the provider, to provide
745 verifiable data based upon the provider's books and records that
746 are kept in the regular course of business that reasonably
747 identifies the portion of the price attributable to the properties
748 or services not subject to the tax.

749 (2) Persons making sales to consumers of electricity,
750 current, power, natural gas, liquefied petroleum gas or other fuel
751 for residential heating, lighting or other residential
752 noncommercial or nonagricultural use or sales of potable water for
753 residential, noncommercial or nonagricultural use shall indicate
754 on each statement rendered to customers that such charges are
755 exempt from sales taxes.

756 (3) There is hereby levied, assessed and shall be paid on
757 transportation charges on shipments moving between points within
758 this state when paid directly by the consumer, a tax equal to the
759 rate applicable to the sale of the property being transported.
760 Such tax shall be reported and paid directly to the Department of
761 Revenue by the consumer.

762 **SECTION 5.** Section 27-65-23, Mississippi Code of 1972, is
763 amended as follows:

764 27-65-23. Upon every person engaging or continuing in any of
765 the following businesses or activities there is hereby levied,
766 assessed and shall be collected a tax equal to seven percent (7%)
767 of the gross income of the business actually performed within this
768 state, except as otherwise provided:



769 Air-conditioning installation or repairs;
770 Automobile, motorcycle, boat or any other vehicle
771 repairing or servicing;
772 Billiards, pool or domino parlors;
773 Bowling or tenpin alleys;
774 Burglar and fire alarm systems or services;
775 Car washing – automatic, self-service, or manual;
776 Computer software * * *~~sales and services~~ (as defined in
777 Section 1 of this act);
778 Cotton compresses or cotton warehouses;
779 Custom creosoting or treating, custom planing, custom
780 sawing;
781 Custom meat processing;
782 Electricians, electrical work, wiring, all repairs or
783 installation of electrical equipment;
784 Elevator or escalator installing, repairing or
785 servicing;
786 Film developing or photo finishing;
787 Foundries, machine or general repairing;
788 Furniture repairing or upholstering;
789 Grading, excavating, ditching, dredging or landscaping;
790 Hotels (as defined in Section 41-49-3), motels, tourist
791 courts or camps, trailer parks;
792 Insulating services or repairs;
793 Jewelry or watch repairing;



794 Laundering, cleaning, pressing or dyeing;
795 Marina services;
796 Mattress renovating;
797 Office and business machine repairing;
798 Parking garages and lots;
799 Plumbing or pipe fitting;
800 Public storage warehouses (There shall be no tax levied
801 on gross income of a public storage warehouse derived from the
802 temporary storage of tangible personal property in this state
803 pending shipping or mailing of the property to another state.);
804 Refrigerating equipment repairs;
805 Radio or television installing, repairing, or servicing;
806 Renting or leasing personal property used within this
807 state;
808 Services performed in connection with geophysical
809 surveying, exploring, developing, drilling, producing,
810 distributing, or testing of oil, gas, water and other mineral
811 resources;
812 Shoe repairing;
813 Storage lockers;
814 Telephone answering or paging services;
815 Termite or pest control services;
816 Tin and sheet metal shops;
817 TV cable systems, subscription TV services, and other
818 similar activities;



819 Vulcanizing, repairing or recapping of tires or tubes;
820 Welding; and
821 Woodworking or woodu-turning shops.

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

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

831 Income from renting or leasing tangible personal property
832 used within this state shall be taxed at the same rates as sales
833 of the same property.

834 Persons doing business in this state who rent transportation
835 equipment with a situs within or without the state to common,
836 contract or private commercial carriers are taxed on that part of
837 the income derived from use within this state. If specific
838 accounting is impracticable, a formula may be used with approval
839 of the commissioner.

840 A lessor may deduct from the tax computed on the rental
841 income from tangible personal property a credit for sales or use
842 tax paid to this state at the time of purchase of the specific



843 personal property being leased or rented until such credit has
844 been exhausted.

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

849 When a taxpayer performs unitary services covered by this
850 section, which are performed both in intrastate and interstate
851 commerce, the commissioner is hereby invested with authority to
852 formulate in each particular case and to fix for such taxpayer in
853 each instance formulae of apportionment which will apportion to
854 this state, for taxation, that portion of the services which are
855 performed within the State of Mississippi.

856 **SECTION 6.** Section 27-65-93, Mississippi Code of 1972, is
857 amended as follows:

858 27-65-93. (1) The commissioner shall, from time to time,
859 promulgate rules and regulations, not inconsistent with the
860 provisions of the sales tax law, for making returns and for the
861 ascertainment, assessment and collection of the tax imposed by the
862 sales tax law as he may deem necessary to enforce its provisions;
863 and, upon request, he shall furnish any taxpayer with a copy of
864 the rules and regulations.

865 (2) All forms, necessary for the enforcement of the sales
866 tax law, shall be prescribed, printed and furnished by the
867 commissioner.



868 (3) The commissioner may adopt rules and regulations
869 providing for the issuance of permits to manufacturers, utilities,
870 construction contractors, companies receiving bond financing
871 through the Mississippi Business Finance Corporation or the
872 Mississippi Development Authority, and other taxpayers as
873 determined by the commissioner, and the commissioner shall adopt
874 rules and regulations providing for the issuance of a permit to
875 any qualified business or industry, which is certified as such by
876 the Mississippi Development Authority pursuant to the Mississippi
877 Flexible Tax Incentive Act and awarded any mFlex tax incentive
878 amount for such qualified business's or industry's qualified
879 economic development project, certified as such by the Mississippi
880 Development Authority pursuant to the Mississippi Flexible Tax
881 Incentive Act, to purchase tangible personal property taxed under
882 Section 27-65-17, items taxed under Section 27-65-18, items taxed
883 under Section 27-65-19, services taxed under Section 27-65-23,
884 items taxed under Section 27-65-24, and items taxed under Section
885 27-65-26 without the payment to the vendor of the tax imposed by
886 the sales and use tax laws, and providing for persons to report
887 and pay the tax directly to the commissioner in instances where
888 the commissioner determines that these provisions will facilitate
889 and expedite the collection of the tax at the proper rates which
890 may be due on purchases by the permittee. Under the provisions of
891 this chapter, the vendor is relieved of collecting and remitting
892 the taxes specified hereunder and the person holding the permit



893 shall become liable for such taxes instead of the seller. The
894 full enforcement provisions of the sales tax law shall apply in
895 the collection of the tax from the permittee.

896 The commissioner shall adopt rules and regulations providing
897 for the issuance of a permit to purchasers and users of computer
898 software or computer software services as defined in Section 1 of
899 this act to purchase such items and services without the payment
900 to the vendor of the tax imposed by the sales and use tax laws.

901 **SECTION 7.** Section 27-67-3, Mississippi Code of 1972, is
902 amended as follows:

903 27-67-3. Whenever used in this article, the words, phrases
904 and terms shall have the meaning ascribed to them as follows:

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

907 (b) "Commissioner" means the Commissioner of Revenue of
908 the Department of Revenue.

909 (c) "Person" means any individual, firm, partnership,
910 joint venture, association, corporation, estate, trust, receiver,
911 syndicate or any other group or combination acting as a unit and
912 includes the plural as well as the singular in number. "Person"
913 shall also include husband or wife, or both, where joint benefits
914 are derived from the operation of a business taxed hereunder or
915 where joint benefits are derived from the use of property taxed
916 hereunder.



917 (d) "Taxpayer" means any person liable for the payment
918 of any tax hereunder, or liable for the collection and payment of
919 the tax.

920 (e) "Sale" or "purchase" means the exchange of
921 properties for money or other consideration, and the barter of
922 properties or products. Every closed transaction by which title
923 to, or possession of, tangible personal property or specified
924 digital products passes shall constitute a taxable event. A
925 transaction whereby the possession of property or products is
926 transferred but the seller retains title as security for payment
927 of the selling price shall be deemed a sale.

928 (f) "Purchase price" or "sales price" means the total
929 amount for which tangible personal property or specified digital
930 product is purchased or sold, valued in money, including
931 installation and service charges, and freight charges to the point
932 of use within this state, without any deduction for cost of
933 property or products sold, expenses or losses, or taxes of any
934 kind except those exempt by the sales tax law. "Purchase price"
935 or "sales price" shall not include cash discounts allowed and
936 taken or merchandise returned by customers when the total sales
937 price is refunded either in cash or by credit, and shall not
938 include amounts allowed for a trade-in of similar property or
939 products. "Purchase price" or "sales price" does not include
940 finance charges, carrying charges or any other addition to the
941 selling price as a result of deferred payments by the purchaser.



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

946 (h) "Value" means the estimated or assessed monetary
947 worth of a thing or property. The value of property or products
948 transferred into this state for sales promotion or advertising
949 shall be an amount not less than the cost paid by the transferor
950 or donor. The value of property or products which have been used
951 in another state shall be determined by its cost less straight
952 line depreciation provided that value shall never be less than
953 twenty percent (20%) of the cost or other method acceptable to the
954 commissioner. On property or products imported by the
955 manufacturer thereof for rental or lease within this state, value
956 shall be the manufactured cost of the property and freight to the
957 place of use in Mississippi.

958 (i) "Tangible personal property" means personal
959 property perceptible to the human senses or by chemical analysis,
960 as opposed to real property or intangibles. "Tangible personal
961 property" shall include printed, mimeographed, multigraphed
962 matter, or material reproduced in any other manner, and books,
963 catalogs, manuals, publications or similar documents covering the
964 services of collecting, compiling or analyzing information of any
965 kind or nature. However, reports representing the work of persons
966 such as lawyers, accountants, engineers and similar professionals



967 shall not be included. "Tangible personal property" shall also
968 include tangible advertising or sales promotion materials such as,
969 but not limited to, displays, brochures, signs, catalogs, price
970 lists, point of sale advertising materials and technical manuals.
971 Tangible personal property shall also include computer
972 software * * * programs.

973 (j) "Person doing business in this state," "person
974 maintaining a place of business within this state," or any similar
975 term means any person having within this state an office, a
976 distribution house, a salesroom or house, a warehouse, or any
977 other place of business, or owning personal property located in
978 this state used by another person, or installing personal property
979 in this state. This definition also includes any person selling
980 or taking orders for any tangible personal property, either
981 personally, by mail or through an employee representative,
982 salesman, commission agent, canvasser, solicitor or independent
983 contractor or by any other means from within the state. "Person
984 doing business in this state" also includes any marketplace
985 facilitator, marketplace seller, or remote seller with sales that
986 exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in any
987 consecutive twelve-month period. A sale made through a
988 marketplace facilitator is a sale of the marketplace facilitator
989 and not the sale of a marketplace seller for purposes of
990 determining whether a person exceeds Two Hundred Fifty Thousand
991 Dollars (\$250,000.00) in sales.



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

996 (k) "Use" or "consumption" means the first use or
997 intended use within this state of tangible personal property or
998 specified digital product and shall include rental or loan by
999 owners or use by lessees or other persons receiving benefits from
1000 use of the property or product. "Use" or "consumption" shall
1001 include the benefit realized or to be realized by persons
1002 importing or causing to be imported into this state tangible
1003 advertising or sales promotion materials.

1004 (l) "Storage" means keeping tangible personal property
1005 or specified digital product in this state for subsequent use or
1006 consumption in this state.

1007 (m) "Specified digital products" shall have the meaning
1008 ascribed to such term in Section 27-65-26.

1009 (n) "Marketplace facilitator" means any person who
1010 facilitates a retail sale by a seller by:

1011 (i) Listing or advertising for sale by the
1012 retailer in any forum, tangible personal property, services or
1013 digital goods that are subject to tax under this chapter; and

1014 (ii) Either directly or indirectly through
1015 agreements or arrangements with third parties collecting payment
1016 from the customer and transmitting that payment to the retailer



1017 regardless of whether the marketplace provider receives
1018 compensation or other consideration in exchange for its service.

1019 (o) "Marketplace seller" means a seller that makes
1020 sales through any physical or electronic marketplace owned,
1021 operated, or controlled by a marketplace facilitator, even if such
1022 seller would not have been required to collect and remit sales tax
1023 had the sale not been made through such marketplace.

1024 (p) "Remote seller" means a person, other than a
1025 marketplace facilitator, that does not maintain a place of
1026 business in this state and that through a forum sells tangible
1027 personal property, taxable services or specified digital products,
1028 the sale or use of which is subject to the tax imposed by this
1029 chapter.

1030 (q) "Computer software" shall have the meaning ascribed
1031 to such term in Section 1 of this act.

1032 **SECTION 8.** Section 27-67-5, Mississippi Code of 1972, is
1033 amended as follows:

1034 27-67-5. There is hereby levied, assessed and shall be
1035 collected from every person a tax for the privilege of using,
1036 storing or consuming, within this state, any tangible personal
1037 property or specified digital product physical possession of which
1038 within the state is acquired in any manner.

1039 (a) The use tax hereby imposed and levied shall be
1040 collected at the same rates as imposed under Section 27-65-20, and
1041 Sections 27-65-17, 27-65-18, 27-65-19, 27-65-24, 27-65-25 and



1042 27-65-26 computed on the purchase or sales price, or value, as
1043 defined in this article.

1044 (b) It shall be the duty of the tax collectors of the
1045 several counties, or the commissioner, as the case may be, to
1046 collect, remit and account for the tax on the use of all vehicles
1047 licensed or registered by the State of Mississippi for the first
1048 time, except when the Mississippi use tax was collected by an
1049 authorized out-of-state dealer at the time of purchase, or when
1050 the use thereof was exempt by Section 27-67-7. The tax collector
1051 or the commissioner shall give to the person registering the
1052 vehicle a receipt in a form prescribed and furnished by the
1053 Department of Revenue for the amount of tax collected.

1054 The tax collector or the commissioner is expressly prohibited
1055 from issuing a license tag to any applicant without collecting the
1056 tax levied by this article, unless positive proof is filed,
1057 together with the application for the license tag, that the
1058 Mississippi tax has been paid, or that the sale was exempt by
1059 Section 27-67-7.

1060 Persons not engaging and continuing in business so as to be
1061 registered for payment of sales and/or use tax may pay use tax due
1062 on the first use of boats, airplanes, equipment or other tangible
1063 personal property and specified digital products to county tax
1064 collectors who are hereby authorized to accept such payments on
1065 behalf of the commissioner. Receipts for all such payments shall



1066 be given to taxpayers in a form prescribed and furnished by the
1067 Department of Revenue.

1068 County tax collectors and the commissioner shall be liable
1069 for the tax they are required hereby to collect, and taxes which
1070 are in fact collected under authority of this section; and failure
1071 to properly collect or maintain proper records shall not relieve
1072 them of liability for payment to the commissioner. Deficiencies
1073 in collection or payment shall be assessed against the tax
1074 collector or the commissioner in the same manner and subject to
1075 the same penalties and provisions for appeal as are deficiencies
1076 assessed against taxpayers.

1077 A dealer authorized to collect and remit the tax to the
1078 Department of Revenue shall give to the purchaser a receipt for
1079 the payment of the tax, in a form prescribed and furnished by the
1080 commissioner, which shall serve as proof of payment to the tax
1081 collector of the county in which the license is to be issued.

1082 Each tax collector of the several counties shall, on or
1083 before the twentieth day of each month, file a report with and pay
1084 to the commissioner all funds collected under the provisions of
1085 this article, less a commission of five percent (5%) which shall
1086 be retained by the tax collector as a commission for collecting
1087 such tax and be deposited in the county general fund. The report
1088 required to be filed shall cover all collections made during the
1089 calendar month next preceding the date on which the report is due
1090 and filed.



1091 Any error in the report and remittance to the commissioner
1092 may be adjusted on a subsequent report. If the error was in the
1093 collection by the tax collector, it shall be adjusted through the
1094 tax collector with the taxpayer before credit is allowed by the
1095 commissioner.

1096 All information relating to the collection of use tax by tax
1097 collectors and such records as the commissioner may require shall
1098 be preserved in the tax collector's office for a period of three
1099 (3) years for audit by the commissioner.

1100 **SECTION 9.** Section 1 of this act shall be codified as a new
1101 section in Chapter 65, Title 27, Mississippi Code of 1972.

1102 **SECTION 10.** Nothing in this act shall affect or defeat any
1103 claim, assessment, appeal, suit, right or cause of action for
1104 taxes due or accrued under the sales tax laws or use tax laws
1105 before the date on which this act becomes effective, whether such
1106 claims, assessments, appeals, suits or actions have been begun
1107 before the date on which this act becomes effective or are begun
1108 thereafter; and the provisions of the sales tax laws and use tax
1109 laws are expressly continued in full force, effect and operation
1110 for the purpose of the assessment, collection and enrollment of
1111 liens for any taxes due or accrued and the execution of any
1112 warrant under such laws before the date on which this act becomes
1113 effective, and for the imposition of any penalties, forfeitures or
1114 claims for failure to comply with such laws.



1115 **SECTION 11.** This act shall take effect and be in force from
1116 and after July 1, 2023.

