

By: Representative Powell

To: Ways and Means

HOUSE BILL NO. 1764
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT SALES OF EQUIPMENT AND MATERIALS USED IN
3 CONNECTION WITH GEOPHYSICAL SURVEYING, EXPLORING, DEVELOPING,
4 DRILLING, REDRILLING, COMPLETING, WORKING OVER, PRODUCING,
5 DISTRIBUTING, OR TESTING OF OIL, GAS AND OTHER MINERAL RESOURCES
6 SHALL BE TAXED AT THE RATE OF FOUR AND ONE-HALF PERCENT, AND THAT
7 OPERATORS THAT REBILL SALES OF EQUIPMENT AND MATERIALS TO
8 NONOPERATING WORKING INTEREST OWNERS ON BEHALF OF A JOINT ACCOUNT
9 THROUGH THE JOINT INTEREST BILLING (JIB), WHERE THE SALES TAX HAS
10 BEEN PAID OR ACCRUED BY THE OPERATOR SHALL NOT BE CHARGED A SALES
11 TAX ON THE JIB AS SERVICES INCOME; TO AMEND SECTION 27-65-21,
12 MISSISSIPPI CODE OF 1972, TO REMOVE FROM THE CONTRACTOR'S TAX
13 CONTRACTS EXCEEDING \$10,000.00 FOR THE REDRILLING, OR WORKING
14 OVER, OR OF DRILLING OR COMPLETING AN OIL WELL OR A GAS WELL; TO
15 AMEND SECTION 27-65-23, MISSISSIPPI CODE OF 1972, TO REVISE THE
16 SALES TAX IMPOSED ON VARIOUS SERVICES TO PROVIDE FOR A TAX RATE OF
17 FOUR AND ONE-HALF PERCENT ON INCOME FROM SERVICES PERFORMED IN
18 CONNECTION WITH GEOPHYSICAL SURVEYING, EXPLORING, DEVELOPING,
19 DRILLING, REDRILLING, COMPLETING, WORKING OVER, PRODUCING,
20 DISTRIBUTING, OR TESTING OF OIL, GAS AND OTHER MINERAL RESOURCES,
21 INCLUDING OVERHEAD SERVICES, AND THAT OPERATORS THAT REBILL SALES
22 OF EQUIPMENT AND MATERIALS TO NONOPERATING WORKING INTEREST OWNERS
23 ON BEHALF OF A JOINT ACCOUNT THROUGH THE JOINT INTEREST BILLING
24 (JIB), WHERE THE SALES TAX HAS BEEN PAID OR ACCRUED BY THE
25 OPERATOR SHALL NOT BE CHARGED A SALES TAX ON THE JIB AS SERVICES
26 INCOME; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** Section 27-65-17, Mississippi Code of 1972, is
29 amended as follows:



30 27-65-17. (1) (a) Except as otherwise provided in this
31 section, upon every person engaging or continuing within this
32 state in the business of selling any tangible personal property
33 whatsoever there is hereby levied, assessed and shall be collected
34 a tax equal to seven percent (7%) of the gross proceeds of the
35 retail sales of the business.

36 (b) Retail sales of farm tractors and parts and labor
37 used to maintain and/or repair such tractors shall be taxed at the
38 rate of one and one-half percent (1-1/2%) when made to farmers for
39 agricultural purposes.

40 (c) (i) Retail sales of farm implements sold to
41 farmers and used directly in the production of poultry, ratite,
42 domesticated fish as defined in Section 69-7-501, livestock,
43 livestock products, agricultural crops or ornamental plant crops
44 or used for other agricultural purposes, and parts and labor used
45 to maintain and/or repair such implements, shall be taxed at the
46 rate of one and one-half percent (1-1/2%) when used on the farm.

47 (ii) The one and one-half percent (1-1/2%) rate
48 shall also apply to all equipment used in logging, pulpwood
49 operations or tree farming, and parts and labor used to maintain
50 and/or repair such equipment, which is either:

- 51 1. Self-propelled, or
52 2. Mounted so that it is permanently attached
53 to other equipment which is self-propelled or attached to other
54 equipment drawn by a vehicle which is self-propelled.



55 In order to be eligible for the rate of tax provided for in
56 this subparagraph (ii), such sales must be made to a professional
57 logger. For the purposes of this subparagraph (ii), a
58 "professional logger" is a person, corporation, limited liability
59 company or other entity, or an agent thereof, who possesses a
60 professional logger's permit issued by the Department of Revenue
61 and who presents the permit to the seller at the time of purchase.
62 The department shall establish an application process for a
63 professional logger's permit to be issued, which shall include a
64 requirement that the applicant submit a copy of documentation
65 verifying that the applicant is certified according to Sustainable
66 Forestry Initiative guidelines. Upon a determination that an
67 applicant is a professional logger, the department shall issue the
68 applicant a numbered professional logger's permit.

69 (d) Except as otherwise provided in subsection (3) of
70 this section, retail sales of aircraft, automobiles, trucks,
71 truck-tractors, semitrailers and manufactured or mobile homes
72 shall be taxed at the rate of three percent (3%).

73 (e) Sales of manufacturing machinery or manufacturing
74 machine parts when made to a manufacturer or custom processor for
75 plant use only when the machinery and machine parts will be used
76 exclusively and directly within this state in manufacturing a
77 commodity for sale, rental or in processing for a fee shall be
78 taxed at the rate of one and one-half percent (1-1/2%).



79 (f) Sales of machinery and machine parts when made to a
80 technology intensive enterprise for plant use only when the
81 machinery and machine parts will be used exclusively and directly
82 within this state for industrial purposes, including, but not
83 limited to, manufacturing or research and development activities,
84 shall be taxed at the rate of one and one-half percent (1-1/2%).
85 In order to be considered a technology intensive enterprise for
86 purposes of this paragraph:

87 (i) The enterprise shall meet minimum criteria
88 established by the Mississippi Development Authority;

89 (ii) The enterprise shall employ at least ten (10)
90 persons in full-time jobs;

91 (iii) At least ten percent (10%) of the workforce
92 in the facility operated by the enterprise shall be scientists,
93 engineers or computer specialists;

94 (iv) The enterprise shall manufacture plastics,
95 chemicals, automobiles, aircraft, computers or electronics; or
96 shall be a research and development facility, a computer design or
97 related facility, or a software publishing facility or other
98 technology intensive facility or enterprise as determined by the
99 Mississippi Development Authority;

100 (v) The average wage of all workers employed by
101 the enterprise at the facility shall be at least one hundred fifty
102 percent (150%) of the state average annual wage; and



103 (vi) The enterprise must provide a basic health
104 care plan to all employees at the facility.

105 A medical cannabis establishment, as defined in the
106 Mississippi Medical Cannabis Act, shall not be considered to be a
107 technology intensive enterprise for the purposes of this paragraph
108 (f).

109 (g) Sales of materials for use in track and track
110 structures to a railroad whose rates are fixed by the Interstate
111 Commerce Commission or the Mississippi Public Service Commission
112 shall be taxed at the rate of three percent (3%).

113 (h) Sales of tangible personal property to electric
114 power associations for use in the ordinary and necessary operation
115 of their generating or distribution systems shall be taxed at the
116 rate of one percent (1%).

117 (i) Wholesale sales of food and drink for human
118 consumption to full-service vending machine operators to be sold
119 through vending machines located apart from and not connected with
120 other taxable businesses shall be taxed at the rate of eight
121 percent (8%).

122 (j) Sales of equipment used or designed for the purpose
123 of assisting disabled persons, such as wheelchair equipment and
124 lifts, that is mounted or attached to or installed on a private
125 carrier of passengers or light carrier of property, as defined in
126 Section 27-51-101, at the time when the private carrier of



127 passengers or light carrier of property is sold shall be taxed at
128 the same rate as the sale of such vehicles under this section.

129 (k) Sales of the factory-built components of modular
130 homes, panelized homes and precut homes, and panel constructed
131 homes consisting of structural insulated panels, shall be taxed at
132 the rate of three percent (3%).

133 (l) Sales of materials used in the repair, renovation,
134 addition to, expansion and/or improvement of buildings and related
135 facilities used by a dairy producer shall be taxed at the rate of
136 three and one-half percent (3-1/2%). For the purposes of this
137 paragraph (l), "dairy producer" means any person engaged in the
138 production of milk for commercial use.

139 (m) Sales of equipment and materials used in connection
140 with geophysical surveying, exploring, developing, drilling,
141 redrilling, completing, working over, producing, distributing, or
142 testing of oil, gas and other mineral resources shall be taxed at
143 the rate of four and one-half percent (4-1/2%). Operators that
144 rebill sales of equipment and materials to nonoperating working
145 interest owners on behalf of a joint account through the joint
146 interest billing (JIB), where the sales tax has been paid or
147 accrued by the operator shall not be charged a sales tax on the
148 JIB as services income.

149 (2) From and after January 1, 1995, retail sales of private
150 carriers of passengers and light carriers of property, as defined



151 in Section 27-51-101, shall be taxed an additional two percent
152 (2%).

153 (3) A manufacturer selling at retail in this state shall be
154 required to make returns of the gross proceeds of such sales and
155 pay the tax imposed in this section.

156 **SECTION 2.** Section 27-65-21, Mississippi Code of 1972, is
157 amended as follows:

158 27-65-21. (1) (a) (i) Upon every person engaging or
159 continuing in this state in the business of contracting or
160 performing a contract or engaging in any of the activities, or
161 similar activities, listed below for a price, commission, fee or
162 wage, there is hereby levied, assessed and shall be collected a
163 tax equal to three and one-half percent (3-1/2%) of the total
164 contract price or compensation received, including all charges
165 related to the contract such as finance charges and late charges,
166 from constructing, building, erecting, repairing, grading,
167 excavating, drilling, exploring, testing or adding to any
168 building, highway, street, sidewalk, bridge, culvert, sewer,
169 irrigation or water system, drainage or dredging system, levee or
170 levee system or any part thereof, railway, reservoir, dam, power
171 plant, electrical system, air-conditioning system, heating system,
172 transmission line, pipeline, tower, dock, storage tank, wharf,
173 excavation, grading, water well, any other improvement or
174 structure or any part thereof when the compensation received
175 exceeds Ten Thousand Dollars (\$10,000.00). Such activities shall



176 not include constructing, repairing or adding to property which
177 retains its identity as personal property. The tax imposed in
178 this section is levied upon the prime contractor and shall be paid
179 by him.

180 (ii) Amounts included in the contract price or
181 compensation received representing the sale of manufacturing or
182 processing machinery for a manufacturer or custom processor shall
183 be taxed at the rate of one and one-half percent (1-1/2%) in lieu
184 of the three and one-half percent (3-1/2%).

185 (b) The following shall be excluded from the tax levied
186 by this section:

187 (i) The contract price or compensation received
188 for constructing, building, erecting, repairing or adding to any
189 building, electrical system, air-conditioning system, heating
190 system or any other improvement or structure which is used for or
191 primarily in connection with a residence or dwelling place for
192 human beings. Such residences shall include homes, mobile homes,
193 summer cottages, fishing and hunting camp buildings and similar
194 buildings, but shall not include apartment buildings,
195 condominiums, hotels, motels, hospitals, nursing or retirement
196 homes, tourist cottages or other commercial establishments.

197 (ii) The portion of the total contract price
198 attributable to design or engineering services if:



199 1. The total contract price for the project
200 exceeds the sum of One Hundred Million Dollars (\$100,000,000.00);
201 or

202 2. The engineering services are performed by
203 a professional engineer as defined in Section 73-13-3, who is the
204 general or prime contractor.

205 (iii) The contract price or compensation received
206 to restore, repair or replace a utility distribution or
207 transmission system that has been damaged due to ice storm,
208 hurricane, flood, tornado, wind, earthquake or other natural
209 disaster if such restoration, repair or replacement is performed
210 by the entity providing the service at its cost.

211 (iv) The contract price or compensation received
212 for constructing, building, erecting, repairing or adding to any
213 building, facility or structure located at any refinery as defined
214 in Section 27-65-24.

215 (c) Sales of materials and services for use in the
216 activities hereby excluded from taxes imposed by this section,
217 except services used in activities excluded pursuant to paragraph
218 (b)(iii) of this subsection, shall be subject to taxes imposed by
219 other sections in this chapter.

220 (2) * * * [Deleted]

221 (3) When the work to be performed under any contract is
222 sublet by the prime contractor to different persons, or in
223 separate contracts to the same persons, each such subcontractor



224 performing any part of said work shall be liable for the amount of
225 the tax which accrues on account of the work performed by such
226 person when the tax heretofore imposed has not been paid upon the
227 whole contract by the prime contractor.

228 When a person engaged in any business on which a tax is
229 levied in Section 27-65-23, also qualifies as a contractor, and
230 contracts with the owner of any project to perform any services in
231 excess of Ten Thousand Dollars (\$10,000.00) herein taxed, such
232 person shall pay the tax imposed by this section in lieu of the
233 tax imposed by Section 27-65-23.

234 Any person entering into any contract over Seventy-five
235 Thousand Dollars (\$75,000.00) as defined in this section shall,
236 before beginning the performance of such contract or contracts,
237 either pay the contractors' tax in advance, together with any use
238 taxes due under Section 27-67-5, or execute and file with the
239 commissioner a good and valid bond in a surety company authorized
240 to do business in this state, or with sufficient sureties to be
241 approved by the commissioner conditioned that all taxes which may
242 accrue to the State of Mississippi under this chapter, or under
243 Section 27-67-5 and Section 27-7-5, will be paid when due. Such
244 bonds shall be either (a) "job bonds" which guarantee payment when
245 due of the aforesaid taxes resulting from performance of a
246 specified job or activity regardless of date of completion; or (b)
247 "blanket bonds" which guarantee payment when due of the aforesaid
248 taxes resulting from performance of all jobs or activities taxable



249 under this section begun during the period specified therein,
250 regardless of date of completion. The payments of the taxes due
251 or the execution and filing of a surety bond shall be a condition
252 precedent to the commencing work on any contract taxed hereunder.
253 Provided, that when any bond is filed in lieu of the prepayment of
254 the tax under this section, that the tax shall be payable monthly
255 on the amount received during the previous month, and any use
256 taxes due shall be payable on or before the twentieth day of the
257 month following the month in which the property is brought into
258 Mississippi.

259 Any person failing either to execute any bond herein
260 provided, or to pay the taxes in advance, before beginning the
261 performance of any contract shall be denied the right to perform
262 such contract until he complies with such requirements, and the
263 commissioner is hereby authorized to proceed either under Section
264 27-65-59, under Section 27-65-61 or by injunction to prevent any
265 activity in the performance of such contract until either a
266 satisfactory bond is executed and filed, or all taxes are paid in
267 advance, and a temporary injunction enjoining the execution of
268 such contract shall be granted without notice by any judge or
269 chancellor now authorized by law to grant injunctions.

270 Any person liable for a tax under this section may apply for
271 and obtain a material purchase certificate from the commissioner
272 which may entitle the holder to purchase materials and services
273 that are to become a component part of the structure to be erected



274 or repaired with no tax due. Provided, that the contractor
275 applying for the contractor's material purchase certificate shall
276 furnish the Department of Revenue a list of all work sublet to
277 others, indicating the amount of work to be performed, and the
278 names and addresses of each subcontractor.

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

281 27-65-23. Upon every person engaging or continuing in any of
282 the following businesses or activities there is hereby levied,
283 assessed and shall be collected a tax equal to seven percent (7%)
284 of the gross income of the business, except as otherwise provided:

285 Air-conditioning installation or repairs;

286 Automobile, motorcycle, boat or any other vehicle
287 repairing or servicing;

288 Billiards, pool or domino parlors;

289 Bowling or tenpin alleys;

290 Burglar and fire alarm systems or services;

291 Car washing – automatic, self-service, or manual;

292 Computer software services actually performed within
293 this state;

294 Cotton compresses or cotton warehouses;

295 Custom creosoting or treating, custom planing, custom
296 sawing;

297 Custom meat processing;



298 Electricians, electrical work, wiring, all repairs or
299 installation of electrical equipment;
300 Elevator or escalator installing, repairing or
301 servicing;
302 Film developing or photo finishing;
303 Foundries, machine or general repairing;
304 Furniture repairing or upholstering;
305 Grading, excavating, ditching, dredging or landscaping;
306 Hotels (as defined in Section 41-49-3), motels, tourist
307 courts or camps, trailer parks;
308 Insulating services or repairs;
309 Jewelry or watch repairing;
310 Laundering, cleaning, pressing or dyeing;
311 Marina services;
312 Mattress renovating;
313 Office and business machine repairing;
314 Parking garages and lots;
315 Plumbing or pipe fitting;
316 Public storage warehouses (There shall be no tax levied
317 on gross income of a public storage warehouse derived from the
318 temporary storage of tangible personal property in this state
319 pending shipping or mailing of the property to another state.);
320 Refrigerating equipment repairs;
321 Radio or television installing, repairing, or servicing;



322 Renting or leasing personal property used within this
323 state;

324 Services performed in connection with geophysical
325 surveying, exploring, developing, drilling, producing,
326 distributing, or testing of * * * water * * * resources not
327 related to development of oil, gas and other mineral resources;

328 Shoe repairing;

329 Storage lockers;

330 Telephone answering or paging services;

331 Termite or pest control services;

332 Tin and sheet metal shops;

333 TV cable systems, subscription TV services, and other
334 similar activities;

335 Vulcanizing, repairing or recapping of tires or tubes;

336 Welding; and

337 Woodworking or wood-turning shops.

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

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



347 Income from services performed in connection with geophysical
348 surveying, exploring, developing, drilling, redrilling,
349 completing, working over, producing, distributing, or testing of
350 oil, gas and other mineral resources, including overhead services
351 shall be taxed at the rate of four and one-half percent (4-1/2%).
352 Operators that rebill services to nonoperating working interest
353 owners on behalf of the joint account through the joint interest
354 billing (JIB), where the sales tax has been paid or accrued by the
355 operator shall not be charged a sales tax on the JIB as services
356 income.

357 Income from renting or leasing tangible personal property
358 used within this state shall be taxed at the same rates as sales
359 of the same property.

360 Persons doing business in this state who rent transportation
361 equipment with a situs within or without the state to common,
362 contract or private commercial carriers are taxed on that part of
363 the income derived from use within this state. If specific
364 accounting is impracticable, a formula may be used with approval
365 of the commissioner.

366 A lessor may deduct from the tax computed on the rental
367 income from tangible personal property a credit for sales or use
368 tax paid to this state at the time of purchase of the specific
369 personal property being leased or rented until such credit has
370 been exhausted.



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

375 When a taxpayer performs services covered by this section,
376 which are performed both in intrastate and interstate commerce,
377 the taxpayer may utilize any reasonable formulae of apportionment
378 which will apportion to this state, for taxation, that portion of
379 the services which are performed within the State of Mississippi.

380 **SECTION 4.** Nothing in this act shall affect or defeat any
381 claim, assessment, appeal, suit, right or cause of action for
382 taxes due or accrued under the sales tax laws before the date on
383 which this act becomes effective, whether such claims,
384 assessments, appeals, suits or actions have been begun before the
385 date on which this act becomes effective or are begun thereafter;
386 and the provisions of the sales tax laws are expressly continued
387 in full force, effect and operation for the purpose of the
388 assessment, collection and enrollment of liens for any taxes due
389 or accrued and the execution of any warrant under such laws before
390 the date on which this act becomes effective, and for the
391 imposition of any penalties, forfeitures or claims for failure to
392 comply with such laws.

393 **SECTION 5.** This act shall take effect and be in force from
394 and after July 1, 2024.

