

By: Representative Eaton

To: Ways and Means

HOUSE BILL NO. 1523

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,  
2 TO EXEMPT FROM SALES TAX SALES OF CERTAIN HOME MEDICAL EQUIPMENT  
3 AND HOME MEDICAL SUPPLIES WHEN PAYMENT FOR SUCH EQUIPMENT AND  
4 SUPPLIES IS MADE BY MEDICARE OR MEDICAID OR BY A PROVIDER UNDER  
5 CONTRACT WITH MEDICARE OR MEDICAID; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 27-65-111, Mississippi Code of 1972, is  
8 amended as follows:

9 27-65-111. The exemptions from the provisions of this  
10 chapter which are not industrial, agricultural or governmental, or  
11 which do not relate to utilities or taxes, or which are not  
12 properly classified as one of the exemption classifications of  
13 this chapter, shall be confined to persons or property exempted by  
14 this section or by the Constitution of the United States or the  
15 State of Mississippi. No exemptions as now provided by any other  
16 section, except the classified exemption sections of this chapter  
17 set forth herein, shall be valid as against the tax herein levied.  
18 Any subsequent exemption from the tax levied hereunder, except as  
19 indicated above, shall be provided by amendments to this section.

20 No exemption provided in this section shall apply to taxes  
21 levied by Section 27-65-15 or 27-65-21.

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

24 (a) Sales of tangible personal property and services to  
25 hospitals or infirmaries owned and operated by a corporation or  
26 association in which no part of the net earnings inures to the  
27 benefit of any private shareholder, group or individual, and which

28 are subject to and governed by Sections 41-7-123 through 41-7-127.

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

32           (b) Sales of daily or weekly newspapers, and  
33 periodicals or publications of scientific, literary or educational  
34 organizations exempt from federal income taxation under Section  
35 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of  
36 March 31, 1975, and subscription sales of all magazines.

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

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

41           (e) Sales of tangible personal property to an  
42 orphanage, old men's or ladies' home, supported wholly or in part  
43 by a religious denomination, fraternal nonprofit organization or  
44 other nonprofit organization.

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

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

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

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

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

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

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

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

80 "Medicines," as used in this paragraph, shall mean and  
81 include any substance or preparation intended for use by external  
82 or internal application to the human body in the diagnosis, cure,  
83 mitigation, treatment or prevention of disease and which is  
84 commonly recognized as a substance or preparation intended for  
85 such use. "Medicines" shall also mean home medical equipment and  
86 home medical supplies listed as eligible for payment under Title  
87 XVIII of the Social Security Act or under the state plan for  
88 medical assistance under Title XIX of the Social Security Act,  
89 prosthetics and orthotics, oxygen and oxygen equipment, when  
90 payment for such equipment and supplies is made by Medicare or  
91 Medicaid or by a provider under contract with Medicare or  
92 Medicaid. However, "medicines" do not include any auditory, \* \* \*  
93 ophthalmic or ocular device or appliance, any dentures or parts  
94 thereof \* \* \*, articles which are in the nature of splints,  
95 bandages, pads, compresses, supports, dressings, instruments,  
96 apparatus, contrivances, appliances, devices or other mechanical,  
97 electronic, optical or physical equipment or article or the

98 component parts and accessories thereof, or any alcoholic beverage  
99 or any other drug or medicine not commonly referred to as a  
100 prescription drug.

101 Notwithstanding the preceding sentence of this subsection,  
102 "medicines" as used in this subsection, shall mean and include  
103 sutures, whether or not permanently implanted, bone screws, bone  
104 pins, pacemakers and other articles permanently implanted in the  
105 human body to assist the functioning of any natural organ, artery,  
106 vein or limb and which remain or dissolve in the body.

107 "Hospital," as used in this paragraph, shall have the meaning  
108 ascribed to it in Section 41-9-3.

109 Insulin furnished by a registered pharmacist to a person for  
110 treatment of diabetes as directed by a physician shall be deemed  
111 to be dispensed on prescription within the meaning of this  
112 subsection.

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

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

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

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

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

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

130 (o) Retail sales of food for human consumption

131 purchased with food stamps issued by the United States Department  
132 of Agriculture, or other federal agency, from and after October 1,  
133 1987, or from and after the expiration of any waiver granted  
134 pursuant to federal law, the effect of which waiver is to permit  
135 the collection by the state of tax on such retail sales of food  
136 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

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

163 SECTION 2. Nothing in this act shall affect or defeat any

164 claim, assessment, appeal, suit, right or cause of action for  
165 taxes due or accrued under the sales tax laws before the date on  
166 which this act becomes effective, whether such claims,  
167 assessments, appeals, suits or actions have been begun before the  
168 date on which this act becomes effective or are begun thereafter;  
169 and the provisions of the sales tax laws are expressly continued  
170 in full force, effect and operation for the purpose of the  
171 assessment, collection and enrollment of liens for any taxes due  
172 or accrued and the execution of any warrant under such laws before  
173 the date on which this act becomes effective, and for the  
174 imposition of any penalties, forfeitures or claims for failure to  
175 comply with such laws.

176 SECTION 3. This act shall take effect and be in force from  
177 and after July 1, 1999.