

By: Representative Fleming

To: Ways and Means

HOUSE BILL NO. 226

1 AN ACT TO AMEND SECTION 27-7-53, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT A TAXPAYER FILING AN INDIVIDUAL INCOME TAX RETURN WHO
3 OWES ADDITIONAL INCOME TAX IN AN AMOUNT IN EXCESS OF \$75.00 BUT
4 NOT IN EXCESS OF \$3,000.00, MAY REQUEST THAT THE CHAIRMAN OF THE
5 STATE TAX COMMISSION ALLOW THE TAXPAYER TO PAY THE ADDITIONAL TAX
6 THROUGH AN INSTALLMENT AGREEMENT; TO PROVIDE THAT THE CHAIRMAN OF
7 THE STATE TAX COMMISSION MAY ALLOW SUCH A TAXPAYER TO PAY THE
8 ADDITIONAL INCOME TAX THROUGH AN INSTALLMENT AGREEMENT IF THE
9 CHAIRMAN OF THE STATE TAX COMMISSION DETERMINES THE TAXPAYER IS
10 FINANCIALLY UNABLE TO PAY THE ADDITIONAL TAX AND CERTAIN OTHER
11 CONDITIONS ARE SATISFIED; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 27-7-53, Mississippi Code of 1972, is
14 amended as follows:

15 27-7-53. (1) (a) Except as otherwise provided in this
16 section, if a return is timely filed by the taxpayer but the tax
17 due is not paid, the commissioner shall make his assessment of tax
18 due by mail or by personal delivery of the assessment to the
19 taxpayer, which assessment shall constitute notice and demand for
20 payment. The taxpayer shall be given a period of thirty (30) days
21 from the date of the notice in which to pay the tax due, including
22 penalty and interest as hereinafter provided, and if said sum is
23 not paid within the period of thirty (30) days, the commissioner
24 shall proceed to collect same under the provisions of Sections
25 27-7-55 to 27-7-67 of this article; provided that within said
26 period of thirty (30) days the taxpayer may appeal as set out in
27 Sections 27-7-71 and 27-7-73.

28 (b) (i) If an individual return is timely filed by the
29 taxpayer and the amount of tax liability (determined without
30 regard to interest, penalties, additions to the tax and additional
31 amounts) of the taxpayer exceeds Seventy-five Dollars (\$75.00) but



32 does not exceed Three Thousand Dollars (\$3,000.00), the taxpayer
33 may request to pay the tax liability through an installment
34 agreement. The taxpayer must file such a request with the return
35 and must provide all information required by the commissioner. If
36 the commissioner determines a taxpayer is financially unable to
37 pay the tax liability, the commissioner may enter into an
38 agreement to accept payment of the tax liability in installments
39 if:

40 1. The taxpayer (and the taxpayer's spouse if
41 the tax liability relates to a joint return), during any of the
42 preceding five (5) years, has not failed to file any return
43 required by this chapter, failed to pay any tax required by this
44 chapter or entered into an installment agreement under this
45 paragraph (b);

46 2. The agreement requires full payment of the
47 tax liability in equal installments within twelve (12) months from
48 the date the return was filed; and

49 3. The taxpayer agrees to comply with the
50 terms of the agreement.

51 (ii) Payments made through an installment
52 agreement shall be subject to the interest requirements of
53 subsection (3) of this section.

54 (iii) The commissioner may terminate an
55 installment agreement entered into under this paragraph (b) if he
56 determines the taxpayer provided inaccurate or incomplete
57 information before the agreement was entered into or he believes
58 the collection of the tax to which the agreement relates is in
59 jeopardy.

60 (iv) The commissioner may modify or terminate an
61 installment agreement entered into under this paragraph (b) if the
62 taxpayer fails to:

63 1. Pay any installment due under the
64 agreement;



65 2. Pay any other tax liability due under this
66 chapter when the liability is due; or

67 3. Provide a statement of financial condition
68 required by the commissioner.

69 (2) If no return is made by a taxpayer required by this
70 chapter to make a return, the commissioner shall determine the
71 taxpayer's liability from the best information available, which
72 determination shall be prima facie correct for the purpose of this
73 article, and the commissioner shall forthwith make an assessment
74 of the tax so determined to be due by mail or by personal delivery
75 of the assessment to the taxpayer, which assessment shall
76 constitute notice and demand for payment. The taxpayer shall be
77 given a period of thirty (30) days from the date of the notice in
78 which to pay the tax due, including penalty and interest as
79 hereinafter provided, and if said sum is not paid within the
80 period of thirty (30) days, the commissioner shall proceed to
81 collect same under the provisions of Sections 27-7-55 to 27-7-67
82 of this article; provided that within said period of thirty (30)
83 days the taxpayer may appeal as set out in Sections 27-7-71 and
84 27-7-73.

85 (3) Interest at the rate of one percent (1%) per month from
86 the due date of the return shall be added or assessed in addition
87 to the tax due as hereinabove provided in subsections (1) and (2).

88 (4) In case of failure to file a return as required by this
89 chapter, unless it can be shown that the failure is due to
90 reasonable cause and not due to willful neglect, there shall be
91 added to the amount required to be shown as tax on the return a
92 penalty of five percent (5%) of the amount of the tax if the
93 failure is for not more than one (1) month, with an additional
94 five percent (5%) for each additional month or fraction thereof
95 during which the failure continues, not to exceed twenty-five
96 percent (25%) in the aggregate. Such failure to file a return
97 penalty shall not be less than One Hundred Dollars (\$100.00).



98 (5) In case of failure to pay the amount shown as tax on any
99 return specified in subsections (1) and (2) of this section on or
100 before the date prescribed for payment of the tax, determined with
101 regard to any extension of time for payment or installment
102 agreement, or both, unless it is shown that the failure is due to
103 reasonable cause and not due to willful neglect, there shall be
104 added to the amount shown as tax on the return one-half of one
105 percent (1/2 of 1%) of the amount of the tax if the failure is for
106 not more than one (1) month, with an additional one-half of one
107 percent (1/2 of 1%) for each additional month or fraction thereof
108 during which the failure continues, not to exceed twenty-five
109 percent (25%) in the aggregate.

110 **SECTION 2.** This act shall take effect and be in force from
111 and after January 1, 2003.

