

By: Representative Eads

To: Ways and Means

HOUSE BILL NO. 608

1 AN ACT TO AMEND SECTION 27-65-33, MISSISSIPPI CODE OF 1972,
 2 TO INCREASE FROM \$20,000.00 TO \$30,000.00, THE AVERAGE MONTHLY
 3 SALES TAX LIABILITY THAT A TAXPAYER REQUIRED TO COLLECT SALES TAX
 4 MUST HAVE FOR THE PRECEDING CALENDAR YEAR BEFORE SUCH A TAXPAYER
 5 IS REQUIRED TO PAY TO THE STATE TAX COMMISSION ON OR BEFORE JUNE
 6 25, 2003, AND ON OR BEFORE THE TWENTY-FIFTH DAY OF JUNE OF EACH
 7 SUCCEEDING YEAR THEREAFTER, AN AMOUNT EQUAL TO AT LEAST
 8 SEVENTY-FIVE PERCENT OF THE TAXPAYER'S ESTIMATED SALES TAX
 9 LIABILITY FOR THE MONTH OF JUNE OF THE CURRENT CALENDAR YEAR OR AN
 10 AMOUNT EQUAL TO AT LEAST SEVENTY-FIVE PERCENT OF THE TAXPAYER'S
 11 SALES TAX LIABILITY FOR THE MONTH OF JUNE OF THE PRECEDING
 12 CALENDAR YEAR; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 27-65-33, Mississippi Code of 1972, is
 15 amended as follows:

16 27-65-33. (1) Except as otherwise provided in this section,
 17 the taxes levied by this chapter shall be due and payable on or
 18 before the twentieth day of the month next succeeding the month in
 19 which the tax accrues, except as otherwise provided. Returns and
 20 payments placed in the mail must be postmarked by the due date in
 21 order to be considered timely filed, except when the due date
 22 falls on a weekend or holiday, returns and payments placed in the
 23 mail must be postmarked by the first working day following the due
 24 date in order to be considered timely filed. The taxpayer shall
 25 make a return showing the gross proceeds of sales or the gross
 26 income of the business, and any and all allowable deductions, or
 27 exempt sales, and compute the tax due for the period covered.

28 As compensation for collecting sales and use taxes, complying
 29 fully with the applicable statutes, filing returns and supplements
 30 thereto and paying all taxes by the twentieth of the month
 31 following the period covered, the taxpayer may discount and retain



32 two percent (2%) of the liability on each return subject to the
33 following limitations:

34 (a) The compensation or discount shall not apply to
35 taxes levied under the provisions of Sections 27-65-19 and
36 27-65-21, or on charges for ginning cotton under Section 27-65-23.

37 (b) The compensation or discount shall not apply to
38 taxes collected by a county official or state agency.

39 (c) The compensation or discount shall not exceed Fifty
40 Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00) per
41 calendar year, per business location on each state sales tax
42 return, or on each use tax return.

43 (d) The compensation or discount shall not apply to any
44 wholesale tax, the rate of which is equal to or greater than the
45 tax rate applicable to retail sales of the same property or
46 service. The retailer of such items shall be entitled to the
47 compensation based on the tax computed on retail sales before
48 application of the credit for any tax paid to the wholesaler,
49 jobber, or other person.

50 (e) The compensation or discount allowed and taken for
51 any filing period may be reassessed and collected when an audit of
52 a taxpayer's records reveals a tax deficiency for that period.

53 (2) A taxpayer required to collect sales taxes under this
54 chapter and having an average monthly sales tax liability of at
55 least Thirty Thousand Dollars (\$30,000.00) for the preceding
56 calendar year shall pay to the State Tax Commission on or before
57 June 25, 2003, and on or before the twenty-fifth day of June of
58 each succeeding year thereafter, an amount equal to at least
59 seventy-five percent (75%) of such taxpayer's estimated sales tax
60 liability for the month of June of the current calendar year, or
61 an amount equal to at least seventy-five percent (75%) of the
62 taxpayer's sales tax liability for the month of June of the
63 preceding calendar year. Payments required to be made under this
64 subsection must be received by the State Tax Commission no later



65 than June 25 in order to be considered timely made. A taxpayer
66 that fails to comply with the requirements of this subsection may
67 be assessed a penalty in an amount equal to ten percent (10%) of
68 the taxpayer's actual sales tax liability for the month of June
69 for which the estimated payment was required to be made. Payments
70 made by a taxpayer under this subsection shall not be considered
71 to be collected for the purposes of any sales tax diversions
72 required by law until the taxpayer files a return for the actual
73 sales taxes collected during the month of June. This subsection
74 shall not apply to any agency, department or instrumentality of
75 the United States, any agency, department, institution,
76 instrumentality or political subdivision of the State of
77 Mississippi, or any agency, department, institution or
78 instrumentality of any political subdivision of the State of
79 Mississippi. Payments made pursuant to this subsection for the
80 month of June 2003, shall be deposited by the State Tax Commission
81 into the Budget Contingency Fund created under Section 27-103-301,
82 and payments made pursuant to this subsection for the month of
83 June of 2004, and each succeeding year thereafter, shall be
84 deposited by the State Tax Commission into the State General Fund.

85 (3) All returns shall be sworn to by the taxpayer, if made
86 by an individual, or by the president, vice president, secretary
87 or treasurer of a corporation, or authorized agent, if made on
88 behalf of a corporation. If made on behalf of a partnership,
89 joint venture, association, trust, estate, or in any other group
90 or combination acting as a unit, any individual delegated by such
91 firm shall swear to the return on behalf of the taxpayer. The
92 commissioner may prescribe methods by which the taxpayer may swear
93 to his return.

94 (4) The commissioner may promulgate rules and regulations to
95 require or permit filing periods of any duration, in lieu of
96 monthly filing periods, for any taxpayer or group thereof.



97 (5) The commissioner may require the execution and filing by
98 the taxpayer with the commissioner of a good and solvent bond with
99 some surety company authorized to do business in Mississippi as
100 surety thereon in an amount double the aggregate tax liability by
101 such taxpayer for any previous three (3) months' period within the
102 last calendar year or estimated three (3) months' tax liability.
103 Said bond is to be conditioned for the prompt payment of such
104 taxes as may be due for each such return.

105 (6) The commissioner, for good cause, may grant such
106 reasonable additional time within which to make any return
107 required under the provisions of this chapter as he may deem
108 proper, but the time for filing any return shall not be extended
109 beyond the twentieth of the month next succeeding the regular due
110 date of the return without the imposition of interest at the rate
111 of one percent (1%) per month or fractional part of a month from
112 the time the return was due until the tax is paid.

113 (7) For persistent, willful, or recurring failure to make
114 any return and pay the tax shown thereby to be due by the time
115 specified, there shall be added to the amount of tax shown to be
116 due ten percent (10%) damages, or interest at the rate of one
117 percent (1%) per month, or both.

118 (8) Any taxpayer may, upon making application therefor,
119 obtain from the commissioner an extension of time for the payment
120 of taxes due on credit sales until collections thereon have been
121 made. When such extension is granted, the taxpayer shall
122 thereafter include in each monthly or quarterly report all
123 collections made during the preceding month or quarter, and shall
124 pay the taxes due thereon at the time of filing such report. Such
125 permission may be revoked or denied at the discretion of the
126 commissioner when, in his opinion, a total sales basis will best
127 reflect the taxable income or expedite examination of the
128 taxpayer's records.



129 (9) Any taxpayer reporting credit sales before collection
130 thereof has been made may take credit on subsequent returns or
131 reports for bad debts actually charged off, if such amounts
132 charged off have previously been included in taxable gross income
133 or taxable gross proceeds of sales, as the case may be, and the
134 tax paid thereon. However, any amounts subsequently collected on
135 accounts that have been charged off as bad debts shall be included
136 in subsequent reports and the tax shall be paid thereon.

137 (10) In cases where an extension of time has been granted by
138 the commissioner for payment of taxes due on credit sales and the
139 taxpayer thereafter discontinues the business, such taxpayer shall
140 be required to file with the commissioner within ten (10) days, or
141 such further time as the commissioner may direct, from the date of
142 the discontinuance of such business, a special report showing the
143 amounts of any credit sales which have not been included in
144 determining the measure of the tax previously paid and any other
145 information with reference to credit sales as the commissioner may
146 require. The commissioner shall thereupon investigate the facts
147 with reference to credit sales and the condition of the accounts,
148 and shall determine, from the best evidence available, the value
149 of all open accounts, notes, or other evidence of debt arising
150 from credit sales. The value of all notes, open accounts and
151 other evidence of debt, as thus determined by the commissioner,
152 shall be used in determining the amount of the tax for which such
153 taxpayer shall be liable. When the amount of the tax shall have
154 been ascertained, the taxpayer shall be required to pay the same
155 within ten (10) days or such further time as the commissioner may
156 allow, notwithstanding the fact that such note or accounts may
157 still remain uncollected.

158 **SECTION 2.** This act shall take effect and be in force from
159 and after its passage.

