

By: Representative Moak

To: Ways and Means

HOUSE BILL NO. 177

1 AN ACT TO AMEND SECTION 27-7-315, MISSISSIPPI CODE OF 1972,
2 TO REDUCE THE PERIOD OF TIME FROM SIX MONTHS TO THREE MONTHS AFTER
3 THE FINAL DATE FOR FILING RETURNS WITHIN WHICH THE STATE TAX
4 COMMISSION MUST REFUND AN OVERPAYMENT OF INCOME TAX BEFORE A
5 TAXPAYER MAY FILE A PETITION WITH THE CHAIRMAN OF THE STATE TAX
6 COMMISSION FOR A HEARING ON THE CLAIM FOR REFUND; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** Section 27-7-315, Mississippi Code of 1972, is
10 amended as follows:

11 27-7-315. If any overpayment of any tax, interest or penalty
12 levied or provided for by Article 1 of this chapter, or in this
13 article, is not refunded to the taxpayer as provided in Section
14 27-7-313 within three (3) months after the final date for filing
15 returns as prescribed by law, the taxpayer may file a petition
16 with the commissioner for a hearing on the claim for refund.
17 Within ten (10) days after the receipt of such petition, the
18 commissioner shall either (1) make refund as requested in the
19 return filed by the taxpayer of the amount claimed by the
20 taxpayer; or (2) set a time and place for such hearing and give
21 notice thereof to the petitioner by registered or certified mail
22 with return receipt requested. The date set for such hearing
23 shall be not less than ten (10) days, nor more than thirty (30)
24 days after notice thereof is given to the petitioner. If, after
25 such hearing, the commissioner shall determine that the petitioner
26 is entitled to a refund as claimed in the return, he shall refund
27 to the petitioner the amount determined to be due. If, after such
28 hearing, the commissioner determines that the petitioner is not
29 entitled to a refund for overpayment, he shall so notify the

30 petitioner by registered mail or by certified mail with return
31 receipt requested.

32 If the petitioner is aggrieved by the decision of the
33 commissioner, he may appeal from the commissioner's decision for a
34 rehearing before the State Tax Commission. Such appeal for a
35 rehearing shall be made within thirty (30) days from the date of
36 notice by the commissioner, and the commission shall set a time
37 for such rehearing to be held no longer than thirty (30) days from
38 the date of petitioner's request. The commission shall notify the
39 petitioner of its decision within ten (10) days from the date of
40 the rehearing. If the petitioner feels further aggrieved by the
41 decision of the commission, he may appeal therefrom to the
42 Chancery Court of Hinds County, or to the chancery court of the
43 county of petitioner's residence, within thirty (30) days from the
44 receipt of notice of the commission's decision. Further appeal
45 may be taken by the petitioner or the commission from the chancery
46 court to the Supreme Court in the same manner, as is provided by
47 law for other cases.

48 If any overpayment of tax as reflected on a return or amended
49 return filed, and verified by the commissioner or determined to be
50 due by the commissioner or commission when no overpayment is shown
51 on a return or amended return, is not refunded within ninety (90)
52 days after the prescribed due date of the return, the date the
53 return is filed, or the date the commissioner or commission
54 determines a refund as being due when no overpayment is shown on a
55 return or amended return, whichever is later, interest at the rate
56 of one percent (1%) per month shall be allowed on such overpayment
57 computed for the period after expiration of the ninety-day period
58 provided herein to the date of payment.

59 **SECTION 2.** This act shall take effect and be in force from
60 and after July 1, 2005.