

By: Representatives Watson, Fleming

To: Judiciary A; Ways and Means

HOUSE BILL NO. 1104

1 AN ACT TO AMEND SECTION 27-7-87, MISSISSIPPI CODE OF 1972, TO
2 INCREASE THE PENALTY FOR GROSSLY NEGLIGENT PREPARATION OF AN
3 INCOME TAX RETURN BY A PREPARER; TO PROVIDE THAT CERTAIN ACTIONS
4 BY A PREPARER SHALL BE CONSIDERED TO BE GROSSLY NEGLIGENT; TO
5 REQUIRE THE CHAIRMAN OF THE STATE TAX COMMISSION TO SEEK TO ENJOIN
6 PREPARERS WHO ARE PENALIZED UNDER THIS SECTION FROM CONTINUING TO
7 PREPARE INCOME TAX RETURNS FOR OTHER PERSONS; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** Section 27-7-87, Mississippi Code of 1972, is
11 amended as follows:

12 27-7-87. (1) Any person making the returns and reports
13 required by this article, who shall knowingly declare or swear
14 falsely, shall be guilty of perjury, and, upon conviction, shall
15 be punished by imprisonment in the State Penitentiary for a term
16 not exceeding ten (10) years.

17 (2) If any individual, corporation, partnership or
18 fiduciary, or any officer, employee, or representative thereof, or
19 member of a partnership, required to pay any tax, make any return,
20 or supply any information or exhibit any books, or records, when
21 requested to do so by the commissioner, or any agent designated by
22 the commissioner, whether with reference to their own returns or
23 not, willfully refuses to do so, the same shall be guilty of a
24 misdemeanor and, upon conviction, shall be fined not less than One
25 Hundred Dollars (\$100.00), nor more than Five Hundred Dollars
26 (\$500.00), or be imprisoned not more than six (6) months, or both.
27 Failure by any of the previously mentioned entities to supply
28 information pursuant to a written request within a reasonable
29 amount of time may subject the entity to a civil penalty of Five
30 Hundred Dollars (\$500.00) per each written request.

31 (3) Any person violating the provisions of Section 27-7-83
32 shall be guilty of a misdemeanor and, upon conviction, shall be
33 punished by a fine of not exceeding One Thousand Dollars
34 (\$1,000.00), or by imprisonment not exceeding one (1) year, or
35 both, at the discretion of the court, and if the offender be an
36 officer or employee of the state, he shall be dismissed from
37 office and be incapable of holding any public office in this state
38 for a period of five (5) years thereafter.

39 (4) (a) Any preparer who is grossly negligent in the
40 preparation of a tax return shall be liable for a penalty of Five
41 Hundred Dollars (\$500.00) for each return so prepared. Every paid
42 preparer must legibly sign each return prepared and must also
43 furnish his federal employer identification number or preparer tax
44 identification number issued by the Internal Revenue Service.

45 (b) For purposes of this subsection, the term "grossly
46 negligent" shall include, but not be limited to:

47 (i) Frequent submission of returns reflecting a
48 tax liability that is understated by twenty-five percent (25%) or
49 greater.

50 (ii) Continued submission of returns containing
51 errors affecting the calculation of tax after being notified of
52 these types of errors by the commission.

53 (iii) Submission of returns claiming a position
54 that is not reasonably sustainable by the commission or an
55 appropriate appellate court.

56 (iv) Continued submission of returns reporting
57 deductions, exemptions or other reductions to income that cannot
58 be documented to support the return.

59 (c) If any person is found to be engaging in the
60 activity of preparing tax returns for others after being penalized
61 as provided for in this subsection, it shall be the duty of the
62 commissioner to proceed to seek an injunction to prevent the
63 person from continuing the preparation of returns.

64 (5) Any individual, corporation or other entity who fails to
65 file a return, or fails to file a complete return, within the
66 prescribed time including extensions and after a written request
67 therefor from the Tax Commission may be subject to a penalty. The
68 penalty is Twenty-five Dollars (\$25.00) per incomplete or omitted
69 attachment or schedule. The maximum penalty per return is Five
70 Hundred Dollars (\$500.00). The required schedules or attachments
71 are to be specified by the commissioner in the Income Tax
72 Regulations or the instructions with the tax forms.

73 **SECTION 2.** This act shall take effect and be in force from
74 and after July 1, 2007.