

By: Representative Johnson (94th)

To: Ways and Means

HOUSE BILL NO. 1627

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
 2 TO EXEMPT FROM SALES TAXATION RETAIL SALES OF FOOD FOR HUMAN
 3 CONSUMPTION NOT PURCHASED WITH FOOD STAMPS BUT WHICH WOULD BE
 4 EXEMPT FROM SALES TAX IF PURCHASED WITH FOOD STAMPS; TO AMEND
 5 SECTIONS 27-65-17, 27-65-19, 27-65-22, 27-65-23, 27-65-25 AND
 6 27-65-26, MISSISSIPPI CODE OF 1972, TO INCREASE THE STATE SALES
 7 TAX RATE OF SEVEN PERCENT TO NINE PERCENT; AND FOR RELATED
 8 PURPOSES.

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

10 **SECTION 1.** Section 27-65-111, Mississippi Code of 1972, is
 11 amended as follows:

12 27-65-111. The exemptions from the provisions of this
 13 chapter which are not industrial, agricultural or governmental, or
 14 which do not relate to utilities or taxes, or which are not
 15 properly classified as one (1) of the exemption classifications of
 16 this chapter, shall be confined to persons or property exempted by
 17 this section or by the Constitution of the United States or the
 18 State of Mississippi. No exemptions as now provided by any other
 19 section, except the classified exemption sections of this chapter
 20 set forth herein, shall be valid as against the tax herein levied.



21 Any subsequent exemption from the tax levied hereunder, except as
22 indicated above, shall be provided by amendments to this section.

23 No exemption provided in this section shall apply to taxes
24 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

25 The tax levied by this chapter shall not apply to the
26 following:

27 (a) Sales of tangible personal property and services to
28 hospitals or infirmaries owned and operated by a corporation or
29 association in which no part of the net earnings inures to the
30 benefit of any private shareholder, group or individual, and which
31 are subject to and governed by Sections 41-7-123 through 41-7-127.

32 Only sales of tangible personal property or services which
33 are ordinary and necessary to the operation of such hospitals and
34 infirmaries are exempted from tax.

35 (b) Sales of daily or weekly newspapers, and
36 periodicals or publications of scientific, literary or educational
37 organizations exempt from federal income taxation under Section
38 501(c) (3) of the Internal Revenue Code of 1954, as it exists as of
39 March 31, 1975, and subscription sales of all magazines.

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

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

44 (e) Sales of tangible personal property to an
45 orphanage, old men's or ladies' home, supported wholly or in part



46 by a religious denomination, fraternal nonprofit organization or
47 other nonprofit organization.

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

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

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

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

68 (ii) Furnished by a licensed physician, surgeon,
69 dentist or podiatrist to his own patient for treatment of the
70 patient; or



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

74 (iv) Sold to a licensed physician, surgeon,
75 podiatrist, dentist or hospital for the treatment of a human
76 being; or

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

83 "Medicines," as used in this paragraph (h), shall mean and
84 include any substance or preparation intended for use by external
85 or internal application to the human body in the diagnosis, cure,
86 mitigation, treatment or prevention of disease and which is
87 commonly recognized as a substance or preparation intended for
88 such use; provided that "medicines" do not include any auditory,
89 prosthetic, ophthalmic or ocular device or appliance, any dentures
90 or parts thereof or any artificial limbs or their replacement
91 parts, articles which are in the nature of splints, bandages,
92 pads, compresses, supports, dressings, instruments, apparatus,
93 contrivances, appliances, devices or other mechanical, electronic,
94 optical or physical equipment or article or the component parts



95 and accessories thereof, or any alcoholic beverage or any other
96 drug or medicine not commonly referred to as a prescription drug.

97 Notwithstanding the preceding sentence of this paragraph (h),
98 "medicines" as used in this paragraph (h), shall mean and include
99 sutures, whether or not permanently implanted, bone screws, bone
100 pins, pacemakers and other articles permanently implanted in the
101 human body to assist the functioning of any natural organ, artery,
102 vein or limb and which remain or dissolve in the body.

103 "Hospital," as used in this paragraph (h), shall have the
104 meaning ascribed to it in Section 41-9-3, Mississippi Code of
105 1972.

106 Insulin furnished by a registered pharmacist to a person for
107 treatment of diabetes as directed by a physician shall be deemed
108 to be dispensed on prescription within the meaning of this
109 paragraph (h).

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

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

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



120 (1) Sales of tangible personal property or services to
121 the Institute for Technology Development.

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

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

127 (o) Retail sales of food for human consumption
128 purchased with food stamps issued by the United States Department
129 of Agriculture, or other federal agency, from and after October 1,
130 1987, or from and after the expiration of any waiver granted
131 pursuant to federal law, the effect of which waiver is to permit
132 the collection by the state of tax on such retail sales of food
133 for human consumption purchased with food stamps.

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

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

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

141 (s) Sales of tangible personal property or services to
142 National Association of Junior Auxiliaries, Inc., and chapters of
143 the National Association of Junior Auxiliaries, Inc.



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

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

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

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

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

161 (y) Sales of tangible personal property or services to
162 the Mississippi Technology Alliance.

163 (z) Sales of tangible personal property to nonprofit
164 organizations that provide foster care, adoption services and
165 temporary housing for unwed mothers and their children if the
166 organization is exempt from federal income taxation under Section
167 501(c) (3) of the Internal Revenue Code.



168 (aa) Sales of tangible personal property to nonprofit
169 organizations that provide residential rehabilitation for persons
170 with alcohol and drug dependencies if the organization is exempt
171 from federal income taxation under Section 501(c)(3) of the
172 Internal Revenue Code.

173 (bb) Retail sales of an article of clothing or footwear
174 designed to be worn on or about the human body if the sales price
175 of the article is less than One Hundred Dollars (\$100.00) and the
176 sale takes place during a period beginning at 12:01 a.m. on the
177 last Friday in July and ending at 12:00 midnight the following
178 Saturday. This paragraph (bb) shall not apply to:

179 (i) Accessories including jewelry, handbags,
180 luggage, umbrellas, wallets, watches, backpacks, briefcases,
181 garment bags and similar items carried on or about the human body,
182 without regard to whether worn on the body in a manner
183 characteristic of clothing;

184 (ii) The rental of clothing or footwear; and

185 (iii) Skis, swim fins, roller blades, skates and
186 similar items worn on the foot.

187 From and after January 1, 2010, the governing authorities of
188 a municipality, for retail sales occurring within the corporate
189 limits of the municipality, may suspend the application of the
190 exemption provided for in this paragraph (bb) by adoption of a
191 resolution to that effect stating the date upon which the
192 suspension shall take effect. A certified copy of the resolution



193 shall be furnished to the Department of Revenue at least ninety
194 (90) days prior to the date upon which the municipality desires
195 such suspension to take effect.

196 (cc) The gross proceeds of sales of tangible personal
197 property made for the sole purpose of raising funds for a school
198 or an organization affiliated with a school.

199 As used in this paragraph (cc), "school" means any public or
200 private school that teaches courses of instruction to students in
201 any grade from kindergarten through Grade 12.

202 (dd) Sales of durable medical equipment and home
203 medical supplies when ordered or prescribed by a licensed
204 physician for medical purposes of a patient. As used in this
205 paragraph (dd), "durable medical equipment" and "home medical
206 supplies" mean equipment, including repair and replacement parts
207 for the equipment or supplies listed under Title XVIII of the
208 Social Security Act or under the state plan for medical assistance
209 under Title XIX of the Social Security Act, prosthetics,
210 orthotics, hearing aids, hearing devices, prescription eyeglasses,
211 oxygen and oxygen equipment. Payment does not have to be made, in
212 whole or in part, by any particular person to be eligible for this
213 exemption. Purchases of home medical equipment and supplies by a
214 provider of home health services or a provider of hospice services
215 are eligible for this exemption if the purchases otherwise meet
216 the requirements of this paragraph.



217 (ee) Sales of tangible personal property or services to
218 Mississippi Blood Services.

219 (ff) (i) Subject to the provisions of this paragraph
220 (ff), retail sales of firearms, ammunition and hunting supplies if
221 sold during the annual Mississippi Second Amendment Weekend
222 holiday beginning at 12:01 a.m. on the last Friday in August and
223 ending at 12:00 midnight the following Sunday. For the purposes
224 of this paragraph (ff), "hunting supplies" means tangible personal
225 property used for hunting, including, and limited to, archery
226 equipment, firearm and archery cases, firearm and archery
227 accessories, hearing protection, holsters, belts and slings.
228 Hunting supplies does not include animals used for hunting.

229 (ii) This paragraph (ff) shall apply only if one
230 or more of the following occur:

231 1. Title to and/or possession of an eligible
232 item is transferred from a seller to a purchaser; and/or

233 2. A purchaser orders and pays for an
234 eligible item and the seller accepts the order for immediate
235 shipment, even if delivery is made after the time period provided
236 in subparagraph (i) of this paragraph (ff), provided that the
237 purchaser has not requested or caused the delay in shipment.

238 (gg) Sales of nonperishable food items to charitable
239 organizations that are exempt from federal income taxation under
240 Section 501(c) (3) of the Internal Revenue Code and operate a food
241 bank or food pantry or food lines.



242 (hh) Sales of tangible personal property or services to
243 the United Way of the Pine Belt Region, Inc.

244 (ii) Sales of tangible personal property or services to
245 the Mississippi Children's Museum or any subsidiary or affiliate
246 thereof operating a satellite or branch museum within this state.

247 (jj) Sales of tangible personal property or services to
248 the Jackson Zoological Park.

249 (kk) Sales of tangible personal property or services to
250 the Hattiesburg Zoo.

251 (ll) Gross proceeds from sales of food, merchandise or
252 other concessions at an event held solely for religious or
253 charitable purposes at livestock facilities, agriculture
254 facilities or other facilities constructed, renovated or expanded
255 with funds for the grant program authorized under Section 18,
256 Chapter 530, Laws of 1995.

257 (mm) Sales of tangible personal property and services
258 to the Diabetes Foundation of Mississippi and the Mississippi
259 Chapter of the Juvenile Diabetes Research Foundation.

260 (nn) Sales of potting soil, mulch, or other soil
261 amendments used in growing ornamental plants which bear no fruit
262 of commercial value when sold to commercial plant nurseries that
263 operate exclusively at wholesale and where no retail sales can be
264 made.



265 (oo) Sales of tangible personal property or services to
266 the University of Mississippi Medical Center Research Development
267 Foundation.

268 (pp) Sales of tangible personal property or services to
269 Keep Mississippi Beautiful, Inc., and all affiliates of Keep
270 Mississippi Beautiful, Inc.

271 (qq) Sales of tangible personal property or services to
272 the Friends of Children's Hospital.

273 (rr) Sales of tangible personal property or services to
274 the Pinecrest Weekend Backpacks for Kids located in Corinth,
275 Mississippi.

276 (ss) Sales of hearing aids when ordered or prescribed
277 by a licensed physician, audiologist or hearing aid specialist for
278 the medical purposes of a patient.

279 (tt) Sales exempt under the Facilitating Business Rapid
280 Response to State Declared Disasters Act of 2015 (Sections
281 27-113-1 through 27-113-9).

282 (uu) Retail sales of food for human consumption not
283 purchased with food stamps issued by the United States Department
284 of Agriculture, or other federal agency, but which would be exempt
285 under paragraph (o) of this section from the taxes imposed by this
286 chapter if the food items were purchased with food stamps.

287 **SECTION 2.** Section 27-65-17, Mississippi Code of 1972, is
288 amended as follows:



289 27-65-17. (1) (a) Except as otherwise provided in this
290 section, upon every person engaging or continuing within this
291 state in the business of selling any tangible personal property
292 whatsoever there is hereby levied, assessed and shall be collected
293 a tax equal to * * * nine percent (9%) of the gross proceeds of
294 the retail sales of the business.

295 (b) Retail sales of farm tractors and parts and labor
296 used to maintain and/or repair such tractors shall be taxed at the
297 rate of one and one-half percent (1-1/2%) when made to farmers for
298 agricultural purposes.

299 (c) (i) Retail sales of farm implements sold to
300 farmers and used directly in the production of poultry, ratite,
301 domesticated fish as defined in Section 69-7-501, livestock,
302 livestock products, agricultural crops or ornamental plant crops
303 or used for other agricultural purposes, and parts and labor used
304 to maintain and/or repair such implements, shall be taxed at the
305 rate of one and one-half percent (1-1/2%) when used on the farm.

306 (ii) The one and one-half percent (1-1/2%) rate
307 shall also apply to all equipment used in logging, pulpwood
308 operations or tree farming, and parts and labor used to maintain
309 and/or repair such equipment, which is either:

- 310 1. Self-propelled, or
311 2. Mounted so that it is permanently attached
312 to other equipment which is self-propelled or permanently attached
313 to other equipment drawn by a vehicle which is self-propelled.



314 In order to be eligible for the rate of tax provided for in
315 this subparagraph (ii), such sales must be made to a professional
316 logger. For the purposes of this subparagraph (ii), a
317 "professional logger" is a person, corporation, limited liability
318 company or other entity, or an agent thereof, who possesses a
319 professional logger's permit issued by the Department of Revenue
320 and who presents the permit to the seller at the time of purchase.
321 The department shall establish an application process for a
322 professional logger's permit to be issued, which shall include a
323 requirement that the applicant submit a copy of documentation
324 verifying that the applicant is certified according to Sustainable
325 Forestry Initiative guidelines. Upon a determination that an
326 applicant is a professional logger, the department shall issue the
327 applicant a numbered professional logger's permit.

328 (d) Except as otherwise provided in subsection (3) of
329 this section, retail sales of aircraft, automobiles, trucks,
330 truck-tractors, semitrailers and manufactured or mobile homes
331 shall be taxed at the rate of three percent (3%).

332 (e) Sales of manufacturing machinery or manufacturing
333 machine parts when made to a manufacturer or custom processor for
334 plant use only when the machinery and machine parts will be used
335 exclusively and directly within this state in manufacturing a
336 commodity for sale, rental or in processing for a fee shall be
337 taxed at the rate of one and one-half percent (1-1/2%).



338 (f) Sales of machinery and machine parts when made to a
339 technology intensive enterprise for plant use only when the
340 machinery and machine parts will be used exclusively and directly
341 within this state for industrial purposes, including, but not
342 limited to, manufacturing or research and development activities,
343 shall be taxed at the rate of one and one-half percent (1-1/2%).
344 In order to be considered a technology intensive enterprise for
345 purposes of this paragraph:

346 (i) The enterprise shall meet minimum criteria
347 established by the Mississippi Development Authority;

348 (ii) The enterprise shall employ at least ten (10)
349 persons in full-time jobs;

350 (iii) At least ten percent (10%) of the workforce
351 in the facility operated by the enterprise shall be scientists,
352 engineers or computer specialists;

353 (iv) The enterprise shall manufacture plastics,
354 chemicals, automobiles, aircraft, computers or electronics; or
355 shall be a research and development facility, a computer design or
356 related facility, or a software publishing facility or other
357 technology intensive facility or enterprise as determined by the
358 Mississippi Development Authority;

359 (v) The average wage of all workers employed by
360 the enterprise at the facility shall be at least one hundred fifty
361 percent (150%) of the state average annual wage; and



362 (vi) The enterprise must provide a basic health
363 care plan to all employees at the facility.

364 (g) Sales of materials for use in track and track
365 structures to a railroad whose rates are fixed by the Interstate
366 Commerce Commission or the Mississippi Public Service Commission
367 shall be taxed at the rate of three percent (3%).

368 (h) Sales of tangible personal property to electric
369 power associations for use in the ordinary and necessary operation
370 of their generating or distribution systems shall be taxed at the
371 rate of one percent (1%).

372 (i) Wholesale sales of beer shall be taxed at the rate
373 of * * * nine percent (9%), and the retailer shall file a return
374 and compute the retail tax on retail sales but may take credit for
375 the amount of the tax paid to the wholesaler on said return
376 covering the subsequent sales of same property, provided adequate
377 invoices and records are maintained to substantiate the credit.

378 (j) Wholesale sales of food and drink for human
379 consumption to full-service vending machine operators to be sold
380 through vending machines located apart from and not connected with
381 other taxable businesses shall be taxed at the rate of eight
382 percent (8%).

383 (k) Sales of equipment used or designed for the purpose
384 of assisting disabled persons, such as wheelchair equipment and
385 lifts, that is mounted or attached to or installed on a private
386 carrier of passengers or light carrier of property, as defined in



387 Section 27-51-101, at the time when the private carrier of
388 passengers or light carrier of property is sold shall be taxed at
389 the same rate as the sale of such vehicles under this section.

390 (1) Sales of the factory-built components of modular
391 homes, panelized homes and precut homes, and panel constructed
392 homes consisting of structural insulated panels, shall be taxed at
393 the rate of three percent (3%).

394 (m) Sales of materials used in the repair, renovation,
395 addition to, expansion and/or improvement of buildings and related
396 facilities used by a dairy producer shall be taxed at the rate of
397 three and one-half percent (3-1/2%). For the purposes of this
398 paragraph (m), "dairy producer" means any person engaged in the
399 production of milk for commercial use.

400 (2) From and after January 1, 1995, retail sales of private
401 carriers of passengers and light carriers of property, as defined
402 in Section 27-51-101, shall be taxed an additional two percent
403 (2%).

404 (3) A manufacturer selling at retail in this state shall be
405 required to make returns of the gross proceeds of such sales and
406 pay the tax imposed in this section.

407 **SECTION 3.** Section 27-65-19, Mississippi Code of 1972, is
408 amended as follows:

409 27-65-19. (1) (a) (i) Except as otherwise provided in
410 this subsection, upon every person selling to consumers,
411 electricity, current, power, potable water, steam, coal, natural



412 gas, liquefied petroleum gas or other fuel, there is hereby
413 levied, assessed and shall be collected a tax equal to * * * nine
414 percent (9%) of the gross income of the business. Provided, gross
415 income from sales to consumers of electricity, current, power,
416 natural gas, liquefied petroleum gas or other fuel for residential
417 heating, lighting or other residential noncommercial or
418 nonagricultural use, and sales of potable water for residential,
419 noncommercial or nonagricultural use shall be excluded from
420 taxable gross income of the business. Provided further, upon
421 every such seller using electricity, current, power, potable
422 water, steam, coal, natural gas, liquefied petroleum gas or other
423 fuel for nonindustrial purposes, there is hereby levied, assessed
424 and shall be collected a tax equal to * * * nine percent (9%) of
425 the cost or value of the product or service used.

426 (ii) Gross income from sales to a church that is
427 exempt from federal income taxation under 26 USCS Section
428 501(c)(3) of electricity, current, power, natural gas, liquefied
429 petroleum gas or other fuel for heating, lighting or other use,
430 and sales of potable water to such a church shall be excluded from
431 taxable gross income of the business if the electricity, current,
432 power, natural gas, liquefied petroleum gas or potable water is
433 utilized on property that is primarily used for religious or
434 educational purposes.

435 (b) (i) There is hereby levied, assessed and shall be
436 collected a tax equal to one and one-half percent (1-1/2%) of the



437 gross income of the business from the sale of naturally occurring
438 carbon dioxide and anthropogenic carbon dioxide lawfully injected
439 into the earth for:

440 1. Use in an enhanced oil recovery project,
441 including, but not limited to, use for cycling, repressuring or
442 lifting of oil; or

443 2. Permanent sequestration in a geological
444 formation.

445 (ii) The one and one-half percent (1-1/2%) rate
446 provided for in this subsection shall apply to electricity,
447 current, power, steam, coal, natural gas, liquefied petroleum gas
448 or other fuel that is sold to a producer of oil and gas for use
449 directly in enhanced oil recovery using carbon dioxide and/or the
450 permanent sequestration of carbon dioxide in a geological
451 formation.

452 (c) The one and one-half percent (1-1/2%) rate provided
453 for in this subsection shall not apply to sales of fuel for
454 automobiles, trucks, truck-tractors, buses, farm tractors or
455 airplanes.

456 (d) (i) Upon every person providing services in this
457 state, there is hereby levied, assessed and shall be collected:

458 1. A tax equal to * * * nine percent (9%) of
459 the gross income received from all charges for intrastate
460 telecommunications services.



461 2. A tax equal to * * * nine percent (9%) of
462 the gross income received from all charges for interstate
463 telecommunications services.

464 3. A tax equal to * * * nine percent (9%) of
465 the gross income received from all charges for international
466 telecommunications services.

467 4. A tax equal to * * * nine percent (9%) of
468 the gross income received from all charges for ancillary services.

469 5. A tax equal to * * * nine percent (9%) of
470 the gross income received from all charges for products delivered
471 electronically, including, but not limited to, software, music,
472 games, reading materials or ring tones.

473 (ii) A person, upon proof that he has paid a tax
474 in another state on an event described in subparagraph (i) of this
475 paragraph (d), shall be allowed a credit against the tax imposed
476 in this paragraph (d) on interstate telecommunications service
477 charges to the extent that the amount of such tax is properly due
478 and actually paid in such other state and to the extent that the
479 rate of sales tax imposed by and paid in such other state does not
480 exceed the rate of sales tax imposed by this paragraph (d).

481 (iii) Charges by one (1) telecommunications
482 provider to another telecommunications provider holding a permit
483 issued under Section 27-65-27 for services that are resold by such
484 other telecommunications provider, including, but not limited to,



485 access charges, shall not be subject to the tax levied pursuant to
486 this paragraph (d).

487 (iv) For purposes of this paragraph (d):

488 1. "Telecommunications service" means the
489 electronic transmission, conveyance or routing of voice, data,
490 audio, video or any other information or signals to a point, or
491 between points. The term "telecommunications service" includes
492 such transmission, conveyance or routing in which computer
493 processing applications are used to act on the form, code or
494 protocol of the content for purposes of transmission, conveyance
495 or routing without regard to whether such service is referred to
496 as voice over Internet protocol services or is classified by the
497 Federal Communications Commission as enhanced or value added. The
498 term "telecommunications service" shall not include:

499 a. Data processing and information
500 services that allow data to be generated, acquired, stored,
501 processed or retrieved and delivered by an electronic transmission
502 to a purchaser where such purchaser's primary purpose for the
503 underlying transaction is the processed data or information;

504 b. Installation or maintenance of wiring
505 or equipment on a customer's premises;

506 c. Tangible personal property;

507 d. Advertising, including, but not
508 limited to, directory advertising;



509 e. Billing and collection services
510 provided to third parties;
511 f. Internet access service;
512 g. Radio and television audio and video
513 programming services regardless of the medium, including the
514 furnishing of transmission, conveyance and routing of such
515 services by the programming service provider. Radio and
516 television audio and video programming services shall include, but
517 not be limited to, cable service as defined in 47 USCS 522(6) and
518 audio and video programming services delivered by commercial
519 mobile radio service providers, as defined in 47 CFR 20.3;
520 h. Ancillary services; or
521 i. Digital products delivered
522 electronically, including, but not limited to, software, music,
523 video, reading materials or ring tones.

524 2. "Ancillary services" means services that
525 are associated with or incidental to the provision of
526 telecommunications services, including, but not limited to,
527 detailed telecommunications billing, directory assistance,
528 vertical service and voice mail service.

529 a. "Conference bridging" means an
530 ancillary service that links two (2) or more participants of an
531 audio or video conference call and may include the provision of a
532 telephone number. Conference bridging does not include the
533 telecommunications services used to reach the conference bridge.



534 b. "Detailed telecommunications billing
535 service" means an ancillary service of separately stating
536 information pertaining to individual calls on a customer's billing
537 statement.

538 c. "Directory assistance" means an
539 ancillary service of providing telephone number information and/or
540 address information.

541 d. "Vertical service" means an ancillary
542 service that is offered in connection with one or more
543 telecommunications services, which offers advanced calling
544 features that allow customers to identify callers and to manage
545 multiple calls and call connections, including conference bridging
546 services.

547 e. "Voice mail service" means an
548 ancillary service that enables the customer to store, send or
549 receive recorded messages. Voice mail service does not include
550 any vertical services that the customer may be required to have in
551 order to utilize the voice mail service.

552 3. "Intrastate" means telecommunications
553 service that originates in one (1) United States state or United
554 States territory or possession, and terminates in the same United
555 States state or United States territory or possession.

556 4. "Interstate" means a telecommunications
557 service that originates in one (1) United States state or United



558 States territory or possession, and terminates in a different
559 United States state or United States territory or possession.

560 5. "International" means a telecommunications
561 service that originates or terminates in the United States and
562 terminates or originates outside the United States, respectively.

563 (v) For purposes of paragraph (d), the following
564 sourcing rules shall apply:

565 1. Except for the defined telecommunications
566 services in item 3 of this subparagraph, the sales of
567 telecommunications services sold on a call-by-call basis shall be
568 sourced to:

569 a. Each level of taxing jurisdiction
570 where the call originates and terminates in that jurisdiction, or

571 b. Each level of taxing jurisdiction
572 where the call either originates or terminates and in which the
573 service address is also located.

574 2. Except for the defined telecommunications
575 services in item 3 of this subparagraph, a sale of
576 telecommunications services sold on a basis other than a
577 call-by-call basis, is sourced to the customer's place of primary
578 use.

579 3. The sale of the following
580 telecommunications services shall be sourced to each level of
581 taxing jurisdiction as follows:



582 a. A sale of mobile telecommunications
583 services other than air-to-ground radiotelephone service and
584 prepaid calling service is sourced to the customer's place of
585 primary use as required by the Mobile Telecommunication Sourcing
586 Act.

587 A. A home service provider shall be
588 responsible for obtaining and maintaining the customer's place of
589 primary use. The home service provider shall be entitled to rely
590 on the applicable residential or business street address supplied
591 by such customer, if the home service provider's reliance is in
592 good faith; and the home service provider shall be held harmless
593 from liability for any additional taxes based on a different
594 determination of the place of primary use for taxes that are
595 customarily passed on to the customer as a separate itemized
596 charge. A home service provider shall be allowed to treat the
597 address used for purposes of the tax levied by this chapter for
598 any customer under a service contract in effect on August 1, 2002,
599 as that customer's place of primary use for the remaining term of
600 such service contract or agreement, excluding any extension or
601 renewal of such service contract or agreement. Month-to-month
602 services provided after the expiration of a contract shall be
603 treated as an extension or renewal of such contract or agreement.

604 B. If the commissioner determines
605 that the address used by a home service provider as a customer's
606 place of primary use does not meet the definition of the term



607 "place of primary use" as defined in subitem a.A. of this item 3,
608 the commissioner shall give binding notice to the home service
609 provider to change the place of primary use on a prospective basis
610 from the date of notice of determination; however, the customer
611 shall have the opportunity, prior to such notice of determination,
612 to demonstrate that such address satisfies the definition.

613 C. The department has the right to
614 collect any taxes due directly from the home service provider's
615 customer that has failed to provide an address that meets the
616 definition of the term "place of primary use" which resulted in a
617 failure of tax otherwise due being remitted.

618 b. A sale of postpaid calling service is
619 sourced to the origination point of the telecommunications signal
620 as first identified by either:

621 A. The seller's telecommunications
622 system; or

623 B. Information received by the
624 seller from its service provider, where the system used to
625 transport such signals is not that of the seller.

626 c. A sale of a prepaid calling service
627 or prepaid wireless calling service shall be subject to the tax
628 imposed by this paragraph if the sale takes place in this state.
629 If the customer physically purchases a prepaid calling service or
630 prepaid wireless calling service at the vendor's place of
631 business, the sale is deemed to take place at the vendor's place



632 of business. If the customer does not physically purchase the
633 service at the vendor's place of business, the sale of a prepaid
634 calling card or prepaid wireless calling card is deemed to take
635 place at the first of the following locations that applies to the
636 sale:

637 A. The customer's shipping address,
638 if the sale involves a shipment;

639 B. The customer's billing address;

640 C. Any other address of the
641 customer that is known by the vendor; or

642 D. The address of the vendor, or
643 alternatively, in the case of a prepaid wireless calling service,
644 the location associated with the mobile telephone number.

645 4. A sale of a private communication service
646 is sourced as follows:

647 a. Service for a separate charge related
648 to a customer channel termination point is sourced to each level
649 of jurisdiction in which such customer channel termination point
650 is located.

651 b. Service where all customer
652 termination points are located entirely within one (1)
653 jurisdiction or levels of jurisdiction is sourced in such
654 jurisdiction in which the customer channel termination points are
655 located.



656 c. Service for segments of a channel
657 between two (2) customer channel termination points located in
658 different jurisdictions and which segments of a channel are
659 separately charged is sourced fifty percent (50%) in each level of
660 jurisdiction in which the customer channel termination points are
661 located.

662 d. Service for segments of a channel
663 located in more than one (1) jurisdiction or levels of
664 jurisdiction and which segments are not separately billed is
665 sourced in each jurisdiction based on the percentage determined by
666 dividing the number of customer channel termination points in such
667 jurisdiction by the total number of customer channel termination
668 points.

669 5. A sale of ancillary services is sourced to
670 the customer's place of primary use.

671 (vi) For purposes of subparagraph (v) of this
672 paragraph (d):

673 1. "Air-to-ground radiotelephone service"
674 means a radio service, as that term is defined in 47 CFR 22.99, in
675 which common carriers are authorized to offer and provide radio
676 telecommunications service for hire to subscribers in aircraft.

677 2. "Call-by-call basis" means any method of
678 charging for telecommunications services where the price is
679 measured by individual calls.



680 3. "Communications channel" means a physical
681 or virtual path of communications over which signals are
682 transmitted between or among customer channel termination points.

683 4. "Customer" means the person or entity that
684 contracts with the seller of telecommunications services. If the
685 end user of telecommunications services is not the contracting
686 party, the end user of the telecommunications service is the
687 customer of the telecommunications service. Customer does not
688 include a reseller of telecommunications service or for mobile
689 telecommunications service of a serving carrier under an agreement
690 to serve the customer outside the home service provider's licensed
691 service area.

692 5. "Customer channel termination point" means
693 the location where the customer either inputs or receives the
694 communications.

695 6. "End user" means the person who utilizes
696 the telecommunications service. In the case of an entity, "end
697 user" means the individual who utilizes the service on behalf of
698 the entity.

699 7. "Home service provider" has the meaning
700 ascribed to such term in Section 124(5) of Public Law 106-252
701 (Mobile Telecommunications Sourcing Act).

702 8. "Mobile telecommunications service" has
703 the meaning ascribed to such term in Section 124(7) of Public Law
704 106-252 (Mobile Telecommunications Sourcing Act).



705 9. "Place of primary use" means the street
706 address representative of where the customer's use of the
707 telecommunications service primarily occurs, which must be the
708 residential street address or the primary business street address
709 of the customer. In the case of mobile telecommunications
710 services, the place of primary use must be within the licensed
711 service area of the home service provider.

712 10. "Post-paid calling service" means the
713 telecommunications service obtained by making a payment on a
714 call-by-call basis either through the use of a credit card or
715 payment mechanism such as a bank card, travel card, credit card or
716 debit card, or by charge made to a telephone number which is not
717 associated with the origination or termination of the
718 telecommunications service. A post-paid calling service includes
719 a telecommunications service, except a prepaid wireless calling
720 service that would be a prepaid calling service except it is not
721 exclusively a telecommunications service.

722 11. "Prepaid calling service" means the right
723 to access exclusively telecommunications services, which must be
724 paid for in advance and which enables the origination of calls
725 using an access number or authorization code, whether manually or
726 electronically dialed, and that is sold in predetermined units or
727 dollars of which the number declines with use in a known amount.

728 12. "Prepaid wireless calling service" means
729 a telecommunications service that provides the right to utilize



730 mobile wireless service as well as other nontelecommunications
731 services, including the download of digital products delivered
732 electronically, content and ancillary service, which must be paid
733 for in advance that is sold in predetermined units or dollars of
734 which the number declines with use in a known amount.

735 13. "Private communication service" means a
736 telecommunications service that entitles the customer to exclusive
737 or priority use of a communications channel or group of channels
738 between or among termination points, regardless of the manner in
739 which such channel or channels are connected, and includes
740 switching capacity, extension lines, stations and any other
741 associated services that are provided in connection with the use
742 of such channel or channels.

743 14. "Service address" means:

744 a. The location of the
745 telecommunications equipment to which a customer's call is charged
746 and from which the call originates or terminates, regardless of
747 where the call is billed or paid.

748 b. If the location in subitem a of this
749 item 14 is not known, the origination point of the signal of the
750 telecommunications services first identified by either the
751 seller's telecommunications system or in information received by
752 the seller from its service provider, where the system used to
753 transport such signals is not that of the seller.



754 c. If the location in subitems a and b
755 of this item 14 are not known, the location of the customer's
756 place of primary use.

757 (vii) 1. For purposes of this subparagraph (vii),
758 "bundled transaction" means a transaction that consists of
759 distinct and identifiable properties or services which are sold
760 for a single nonitemized price but which are treated differently
761 for tax purposes.

762 2. In the case of a bundled transaction that
763 includes telecommunications services, ancillary services, Internet
764 access, or audio or video programming services taxed under this
765 chapter in which the price of the bundled transaction is
766 attributable to properties or services that are taxable and
767 nontaxable, the portion of the price that is attributable to any
768 nontaxable property or service shall be subject to the tax unless
769 the provider can reasonably identify that portion from its books
770 and records kept in the regular course of business.

771 3. In the case of a bundled transaction that
772 includes telecommunications services, ancillary services, Internet
773 access, audio or video programming services subject to tax under
774 this chapter in which the price is attributable to properties or
775 services that are subject to the tax but the tax revenue from the
776 different properties or services are dedicated to different funds
777 or purposes, the provider shall allocate the price among the
778 properties or services:



779 a. By reasonably identifying the portion
780 of the price attributable to each of the properties and services
781 from its books and records kept in the regular course of business;
782 or

783 b. Based on a reasonable allocation
784 methodology approved by the department.

785 4. This subparagraph (vii) shall not create a
786 right of action for a customer to require that the provider or the
787 department, for purposes of determining the amount of tax
788 applicable to a bundled transaction, allocate the price to the
789 different portions of the transaction in order to minimize the
790 amount of tax charged to the customer. A customer shall not be
791 entitled to rely on the fact that a portion of the price is
792 attributable to properties or services not subject to tax unless
793 the provider elects, after receiving a written request from the
794 customer in the form required by the provider, to provide
795 verifiable data based upon the provider's books and records that
796 are kept in the regular course of business that reasonably
797 identifies the portion of the price attributable to the properties
798 or services not subject to the tax.

799 (2) Persons making sales to consumers of electricity,
800 current, power, natural gas, liquefied petroleum gas or other fuel
801 for residential heating, lighting or other residential
802 noncommercial or nonagricultural use or sales of potable water for
803 residential, noncommercial or nonagricultural use shall indicate



804 on each statement rendered to customers that such charges are
805 exempt from sales taxes.

806 (3) There is hereby levied, assessed and shall be paid on
807 transportation charges on shipments moving between points within
808 this state when paid directly by the consumer, a tax equal to the
809 rate applicable to the sale of the property being transported.
810 Such tax shall be reported and paid directly to the Department of
811 Revenue by the consumer.

812 **SECTION 4.** Section 27-65-22, Mississippi Code of 1972, is
813 amended as follows:

814 27-65-22. (1) Upon every person engaging or continuing in
815 any amusement business or activity, which shall include all manner
816 and forms of entertainment and amusement, all forms of diversion,
817 sport, recreation or pastime, shows, exhibitions, contests,
818 displays, games or any other and all methods of obtaining
819 admission charges, donations, contributions or monetary charges of
820 any character, from the general public or a limited or selected
821 number thereof, directly or indirectly in return for other than
822 tangible property or specific personal or professional services,
823 whether such amusement is held or conducted in a public or private
824 building, hotel, tent, pavilion, lot or resort, enclosed or in the
825 open, there is hereby levied, assessed and shall be collected a
826 tax equal to * * * nine percent (9%) of the gross income received
827 as admission, except as otherwise provided herein. In lieu of the
828 rate set forth above, there is hereby imposed, levied and



829 assessed, to be collected as hereinafter provided, a tax of three
830 percent (3%) of gross revenue derived from sales of admission to
831 publicly owned enclosed coliseums and auditoriums (except
832 admissions to athletic contests between colleges and
833 universities). There is hereby imposed, levied and assessed a tax
834 of * * * nine percent (9%) of gross revenue derived from sales of
835 admission to events conducted on property managed by the
836 Mississippi Veterans Memorial Stadium, which tax shall be
837 administered in the manner prescribed in this chapter, subject,
838 however, to the provisions of Sections 55-23-3 through 55-23-11.

839 (2) The operator of any place of amusement in this state
840 shall collect the tax imposed by this section, in addition to the
841 price charged for admission to any place of amusement, and under
842 all circumstances the person conducting the amusement shall be
843 liable for, and pay the tax imposed based upon the actual charge
844 for such admission. Where permits are obtained for conducting
845 temporary amusements by persons who are not the owners, lessees or
846 custodians of the buildings, lots or places where the amusements
847 are to be conducted, or where such temporary amusement is
848 permitted by the owner, lessee or custodian of any place to be
849 conducted without the procurement of a permit as required by this
850 chapter, the tax imposed by this chapter shall be paid by the
851 owner, lessee or custodian of such place where such temporary
852 amusement is held or conducted, unless paid by the person
853 conducting the amusement, and the applicant for such temporary



854 permit shall furnish with the application therefor, the name and
855 address of the owner, lessee or custodian of the premises upon
856 which such amusement is to be conducted, and such owner, lessee or
857 custodian shall be notified by the commission of the issuance of
858 such permit, and of the joint liability for such tax.

859 (3) The tax imposed by this section shall not be levied or
860 collected upon:

861 (a) Any admissions charged at any place of amusement
862 operated by a religious, charitable or educational organization,
863 or by a nonprofit civic club or fraternal organization (i) when
864 the net proceeds of such admissions do not inure to any one or
865 more individuals within such organization and are to be used
866 solely for religious, charitable, educational or civic purposes;
867 or (ii) when the entire net proceeds are used to defray the normal
868 operating expenses of such organization, such as loan payments,
869 maintenance costs, repairs and other operating expenses;

870 (b) Any admissions charged to hear gospel singing when
871 promoted by a duly constituted local, bona fide nonprofit
872 charitable or religious organization, irrespective of the fact
873 that the performers and promoters are paid out of the proceeds of
874 admissions collected, provided the program is composed entirely of
875 gospel singing and not generally mixed with hillbilly or popular
876 singing;

877 (c) Any admissions charged at any athletic games or
878 contests between high schools or between grammar schools;



879 (d) Any admissions or tickets to or for baseball games
880 between teams operated under a professional league franchise;

881 (e) Any admissions to county, state or community fairs,
882 or any admissions to entertainments presented in community homes
883 or houses which are publicly owned and controlled, and the
884 proceeds of which do not inure to any individual or individuals;

885 (f) Any admissions or tickets to organized garden
886 pilgrimages and to antebellum and historic houses when sponsored
887 by an organized civic or garden club;

888 (g) Any admissions to any golf tournament held under
889 the auspices of the Professional Golf Association or United States
890 Golf Association wherein touring professionals compete, if such
891 tournament is sponsored by a nonprofit association incorporated
892 under the laws of the State of Mississippi where no dividends are
893 declared and the proceeds do not inure to any individual or group;

894 (h) Any admissions to university or community college
895 conference, state, regional or national playoffs or championships;

896 (i) Any admissions or fees charged by any county or
897 municipally owned and operated swimming pools, golf courses and
898 tennis courts other than sales or rental of tangible personal
899 property;

900 (j) Any admissions charged for the performance of
901 symphony orchestras, operas, vocal or instrumental artists in
902 which professional or amateur performers are compensated out of
903 the proceeds of such admissions, when sponsored by local music or



904 charity associations, or amateur dramatic performances or
905 professional dramatic productions when sponsored by a children's
906 dramatic association, where no dividends are declared, profits
907 received, nor any salary or compensation paid to any of the
908 members of such associations, or to any person for procuring or
909 producing such performance;

910 (k) Any admissions or tickets to or for hockey games
911 between teams operated under a professional league franchise;

912 (l) Any admissions or tickets to or for events
913 sanctioned by the Mississippi Athletic Commission that are held
914 within publicly owned enclosed coliseums and auditoriums;

915 (m) Guided tours on any navigable waters of this state,
916 which include providing accommodations, guide services and/or
917 related equipment operated by or under the direction of the person
918 providing the tour, for the purposes of outdoor tourism; and

919 (n) Any admissions to events held solely for religious
920 or charitable purposes at livestock facilities, agriculture
921 facilities or other facilities constructed, renovated or expanded
922 with funds from the grant program authorized under Section 18 of
923 Chapter 530, Laws of 1995.

924 **SECTION 5.** Section 27-65-23, Mississippi Code of 1972, is
925 amended as follows:

926 27-65-23. Upon every person engaging or continuing in any of
927 the following businesses or activities there is hereby levied,
928 assessed and shall be collected a tax equal to * * * nine percent



929 (9%) of the gross income of the business, except as otherwise
930 provided:

931 Air-conditioning installation or repairs;
932 Automobile, motorcycle, boat or any other vehicle
933 repairing or servicing;
934 Billiards, pool or domino parlors;
935 Bowling or tenpin alleys;
936 Burglar and fire alarm systems or services;
937 Car washing – automatic, self-service, or manual;
938 Computer software sales and services;
939 Cotton compresses or cotton warehouses;
940 Custom creosoting or treating, custom planing, custom
941 sawing;
942 Custom meat processing;
943 Electricians, electrical work, wiring, all repairs or
944 installation of electrical equipment;
945 Elevator or escalator installing, repairing or
946 servicing;
947 Film developing or photo finishing;
948 Foundries, machine or general repairing;
949 Furniture repairing or upholstering;
950 Grading, excavating, ditching, dredging or landscaping;
951 Hotels (as defined in Section 41-49-3), motels, tourist
952 courts or camps, trailer parks;
953 Insulating services or repairs;



954 Jewelry or watch repairing;
955 Laundering, cleaning, pressing or dyeing;
956 Marina services;
957 Mattress renovating;
958 Office and business machine repairing;
959 Parking garages and lots;
960 Plumbing or pipe fitting;
961 Public storage warehouses (There shall be no tax levied
962 on gross income of a public storage warehouse derived from the
963 temporary storage of tangible personal property in this state
964 pending shipping or mailing of the property to another state.);
965 Refrigerating equipment repairs;
966 Radio or television installing, repairing, or servicing;
967 Renting or leasing personal property used within this
968 state;
969 Services performed in connection with geophysical
970 surveying, exploring, developing, drilling, producing,
971 distributing, or testing of oil, gas, water and other mineral
972 resources;
973 Shoe repairing;
974 Storage lockers;
975 Telephone answering or paging services;
976 Termite or pest control services;
977 Tin and sheet metal shops;



978 TV cable systems, subscription TV services, and other
979 similar activities;

980 Vulcanizing, repairing or recapping of tires or tubes;
981 Welding; and

982 Woodworking or woodu-turning shops.

983 Income from services taxed herein performed for electric
984 power associations in the ordinary and necessary operation of
985 their generating or distribution systems shall be taxed at the
986 rate of one percent (1%).

987 Income from services taxed herein performed on materials for
988 use in track or track structures to a railroad whose rates are
989 fixed by the Interstate Commerce Commission or the Mississippi
990 Public Service Commission shall be taxed at the rate of three
991 percent (3%).

992 Income from renting or leasing tangible personal property
993 used within this state shall be taxed at the same rates as sales
994 of the same property.

995 Persons doing business in this state who rent transportation
996 equipment with a situs within or without the state to common,
997 contract or private commercial carriers are taxed on that part of
998 the income derived from use within this state. If specific
999 accounting is impracticable, a formula may be used with approval
1000 of the commissioner.

1001 A lessor may deduct from the tax computed on the rental
1002 income from tangible personal property a credit for sales or use



1003 tax paid to this state at the time of purchase of the specific
1004 personal property being leased or rented until such credit has
1005 been exhausted.

1006 Charges for custom processing and repairing services may be
1007 excluded from gross taxable income when the property on which the
1008 service was performed is delivered to the customer in another
1009 state either by common carrier or in the seller's equipment.

1010 When a taxpayer performs unitary services covered by this
1011 section, which are performed both in intrastate and interstate
1012 commerce, the commissioner is hereby invested with authority to
1013 formulate in each particular case and to fix for such taxpayer in
1014 each instance formulae of apportionment which will apportion to
1015 this state, for taxation, that portion of the services which are
1016 performed within the State of Mississippi.

1017 **SECTION 6.** Section 27-65-25, Mississippi Code of 1972, is
1018 amended as follows:

1019 27-65-25. Upon every person engaging or continuing within
1020 this state in the business of selling alcoholic beverages, the
1021 sales of which are legal under the provisions of Chapter 1 of
1022 Title 67, Mississippi Code of 1972, there is hereby levied,
1023 assessed and shall be collected a tax equal to * * * nine percent
1024 (9%) of the gross proceeds of the retail sales of the business.
1025 All sales at wholesale to retailers shall be taxed at the same
1026 rate as provided in this section for retail sales. A retailer in
1027 computing the tax on sales may take credit for the amount of the



1028 tax paid to the wholesaler at the rates provided herein and remit
1029 the difference to the commissioner, provided adequate records and
1030 all invoices are maintained to substantiate the credit claimed.

1031 **SECTION 7.** Section 27-65-26, Mississippi Code of 1972, is
1032 amended as follows:

1033 27-65-26. (1) Upon every person engaging or continuing
1034 within this state in the business of selling, renting or leasing
1035 specified digital products, there shall be levied, assessed and
1036 shall be collected a tax equal to * * * nine percent (9%) of the
1037 gross income of the business. The sale of a digital code that
1038 allows the purchaser to obtain a specified digital product shall
1039 be taxed in the same manner as the sale of a specified digital
1040 product. The tax is imposed when:

- 1041 (a) The sale is to an end user;
- 1042 (b) The seller grants the right of permanent or less
1043 than permanent use of the products transferred electronically; or
- 1044 (c) The sale is conditioned or not conditioned upon
1045 continued payment.

1046 (2) Charges by one (1) specified digital products provider
1047 to another specified digital products provider holding a permit
1048 issued under Section 27-65-27 for services that are resold by such
1049 other specified digital products provider shall not be subject to
1050 the tax levied pursuant to this section.

1051 (3) For purposes of this section:



1052 (a) "Specified digital products" means electronically
1053 transferred digital audio-visual works, digital audio works and
1054 digital books.

1055 (b) "Digital audio-visual works" means a series of
1056 related images which, when shown in succession, impart an
1057 impression of motion, together with accompanying sounds, if any.

1058 (c) "Digital audio works" means works that result from
1059 the fixation of a series of musical, spoken or other sounds,
1060 including ringtones. "Ringtones" means digitized sound files that
1061 are downloaded onto a device and that may be used to alert the
1062 customer with respect to a communication.

1063 (d) "Digital books" means works that are generally
1064 recognized in the ordinary and usual sense as "books."

1065 (e) "Electronically transferred" means obtained by the
1066 purchaser by means other than tangible storage media.

1067 (f) "End user" means any person other than a person who
1068 receives by contract a product transferred electronically for
1069 further commercial broadcast, rebroadcast, transmission,
1070 retransmission, licensing, relicensing, distribution,
1071 redistribution or exhibition of the product, in whole or in part,
1072 to another person or persons.

1073 (g) "Permanent use" means for purposes of this section
1074 for perpetual or for an indefinite or unspecified length of time.

1075 (h) "Digital code" means a code that permits a
1076 purchaser to obtain a specified digital product at a later date.



1077 **SECTION 8.** This act shall take effect and be in force from
1078 and after July 1, 2018.

