

Chapter No. 323  
10/HR40/R1042CS  
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***HOUSE BILL NO. 1460***

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1460

AN ACT TO AMEND SECTION 27-3-73, MISSISSIPPI CODE OF 1972, TO REVISE THE TYPE OF INFORMATION THAT MAY NOT BE DISCLOSED BY THE DEPARTMENT OF REVENUE; TO AMEND SECTION 27-3-83, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COMMISSIONER OF REVENUE MAY REQUIRE CERTAIN TAXPAYERS TO SUBMIT RETURNS, SCHEDULES AND OTHER INFORMATION ELECTRONICALLY; TO REVISE THE PENALTY THAT MAY BE IMPOSED UPON A TAXPAYER FOR FAILURE TO COMPLY WITH SUCH REQUIREMENTS; TO AMEND SECTION 27-65-37, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COMMISSIONER OF REVENUE MAY MAKE HIS ASSESSMENT FOR UNPAID SALES TAX BY REGULAR MAIL RATHER THAN CERTIFIED OR REGISTERED MAIL; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 27-3-73, Mississippi Code of 1972, is amended as follows:

27-3-73. (1) Except in accordance with proper judicial order, it shall be unlawful for the Commissioner of Revenue, or any deputy, agent, clerk or other officer or employee of the Department of Revenue, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required on any taxes collected by reports received by the Department of Revenue. This provision relates to all taxes collected by the Department of Revenue and not referred to in Sections 27-7-83, 27-13-57 and 27-65-81, requiring confidentiality of income tax, franchise tax and sales tax returns. All system edits, thresholds, and any other automated system calculations used by the Department of Revenue in the processing of returns or statistics or used to determine the correct tax due for all taxes administered by the department shall be considered confidential information and may not be divulged or made known. Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the

identification of particular reports or returns and the items thereof, or the inspection by the Attorney General, or any other attorney representing the state, of the report or return of any taxpayer who shall bring action to set aside the tax thereon, or against whom an action or proceeding has been instituted to recover any tax or penalty imposed. Additionally, nothing herein shall prohibit the Commissioner of Revenue from making available information necessary to recover taxes owing the state pursuant to the authority granted in Section 27-75-16, Mississippi Code of 1972.

The term "proper judicial order" as used in this section shall not include subpoenas or subpoenas duces tecum but shall include only those orders entered by a court of record in this state after furnishing notice and a hearing to the taxpayer and the Department of Revenue. The court shall not authorize the furnishing of such information unless it is satisfied that the information is needed to pursue pending litigation wherein the return itself is in issue, or the judge is satisfied that the need for furnishing the information outweighs the rights of the taxpayer to have such information secreted.

However, information relating to possible tax liability to other states or the federal government may be furnished to the revenue departments of those states or the federal government when the states or federal government grant a like comity to Mississippi.

(2) The State Auditor and the employees of his office shall have the right to examine only such tax returns as are necessary for auditing the Department of Revenue, and the same prohibitions against disclosure which apply to the Department of Revenue shall apply to the State Auditor and his office.

(3) Any person who violates the provisions of this section shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00) or

imprisoned not more than six (6) months in the county jail, or both.

**SECTION 2.** Section 27-3-83, Mississippi Code of 1972, is amended as follows:

27-3-83. (1) The Commissioner of Revenue may specify by rule or regulation the manner and method, either manually or electronically, by which tax returns, supporting schedules, information returns and other tax documents and information may be filed with the Department of Revenue. The commissioner may require certain taxpayers to submit any or all returns, schedules or other information electronically; however, the commissioner shall not require the submission of returns, schedules or other information electronically by taxpayers that do not have the capability to make the submissions electronically.

(2) The Commissioner of Revenue may specify by rule or regulation alternative forms of signature that may be allowed or required on tax returns and documents. Such alternative forms of signature shall have the same legal effect as that of a manual signature.

(3) An electronic or paper reproduction of a form or document, or the reproduction of the information placed on computer storage devices by electronic means, shall be deemed to be an original of the form or document for all purposes and is admissible in evidence without further foundation in all courts and administrative hearings if the following certification by the Commissioner of Revenue, along with his official seal, is affixed to the reproduction:

The Commissioner of Revenue, official custodian of all records of the Department of Revenue, hereby certifies this document is a true reproduction of the information contained in the official records of this agency.

(4) If a person fails to comply with the rules and regulations promulgated by the commissioner under the provisions

of subsection (1) or (2) of this section; fails to comply with any electronic filing mandate; fails to complete any return, supporting schedule, information return or other tax document or fails to remit any required schedule or additional information, the commissioner may impose a penalty of Twenty-five Dollars (\$25.00) for the first instance of noncompliance and Five Hundred Dollars (\$500.00) for each additional instance of noncompliance. Any penalty imposed under this section shall be collected in the same manner as that set forth for the collection of penalties under the Mississippi Sales Tax Law, being Section 27-65-1 et seq.

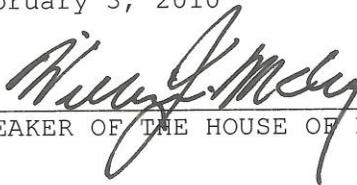
**SECTION 3.** Section 27-65-37, Mississippi Code of 1972, is amended as follows:

27-65-37. If adequate records of the gross income or gross proceeds of sales are not maintained or invoices preserved as provided herein, or if an audit of the records of a taxpayer, or any return filed by him, or any other information discloses that taxes are due and unpaid, the commissioner shall make assessments of taxes, damages, and interest from any information available, which shall be prima facie correct. The commissioner shall give notice to the taxpayer of such assessments and demand payment of the tax, damages and interest within sixty (60) days from the date of the notice. The notice shall be sent by regular mail or delivered by an agent of the commissioner either to the taxpayer or someone of suitable age and discretion at the taxpayer's residence or place of business.

If the taxpayer shall fail or refuse to comply with the notice of assessment or shall fail to petition for a hearing, the commissioner shall proceed as provided in Section 27-65-39.

**SECTION 4.** This act shall take effect and be in force from and after July 1, 2010.

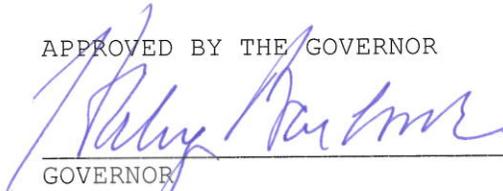
PASSED BY THE HOUSE OF REPRESENTATIVES  
February 3, 2010

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 3, 2010

  
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
GOVERNOR

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