

Exhibit T

Laws 1985, Chapter 351 (S.B. 2876)

person, as the case may be), _____ a member of his (or her) family above the age of sixteen (16) years, and willing to receive such copy. The said property owner is not found in my municipality.

"This, the ___ day of _____ A.D. ____.

_____ (police officer)"

(c) Form of return when property owner not found within municipality and is a nonresident thereof:

"I have this day attempted to deliver the within notice to _____, the within named property owner, and after diligent search and inquiry, I failed to find the said property owner within my municipality, nor could I ascertain the location of any residence of the property owner within my municipality.

"This, the ___ day of _____ A.D. ____.

_____ (police officer)"

(d) The first mode of notice should be made, if it can be; if not, then the second mode should be made, if it can be; and the return of the second mode of service must negate the officer's ability to make the first. If neither the first nor second mode of service can be made, then the third mode should be made, and the return thereof must negate the officer's ability to make both the first and second. In the event the third mode of service is made, then service shall also be made by publication as provided in subsection (1) of this section.

(4) The officer shall mark on all notices the day of the receipt thereof by him, and he shall return the same on or before the day of the hearing, with a written statement of his proceedings thereon. For failing to note the time of the receipt of notice or for failing to return the same, the officer shall forfeit to the party aggrieved the sum of Twenty-five Dollars (\$25.00).

SECTION 2. This act shall take effect and be in force from and after July 1, 1985.

Approved: March 19, 1985

CHAPTER 351 SENATE BILL NO. 2876

AN ACT TO INCREASE CERTAIN TAXES TO PROVIDE REVENUES TO FUND SALARY INCREASES FOR TEACHERS AND STATE EMPLOYEES AND TO FUND OTHER NEEDS OF STATE GOVERNMENT; TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972, TO INCREASE TO 1-1/2% THE TAX ON SALES OF MANUFACTURING MACHINERY OR MANUFACTURING MACHINE PARTS AND TO IMPOSE A 3% WHOLESALE SALES TAX ON SOFT DRINKS AND SYRUP WITH NO CREDIT TO THE RETAILER; TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972, TO INCREASE TO 1-1/2% THE INDUSTRIAL AND RAILROAD FUEL TAX RATE; TO AMEND SECTION 27-65-21, MISSISSIPPI CODE OF 1972, TO INCREASE THE CONTRACTOR'S TAX TO 3-1/2%; TO AMEND SECTION 27-65-23, MISSISSIPPI CODE OF 1972, TO IMPOSE A 6% SALES TAX ON COMPUTER SOFTWARE SALES AND SERVICES; TO AMEND SECTION 27-69-3, MISSISSIPPI CODE OF 1972, TO DEFINE "MANUFACTURER'S LIST PRICE" FOR TOBACCO PRODUCTS AND TO REVISE THE DEFINITION OF CERTAIN OTHER TERMS; TO AMEND SECTIONS 27-69-5 AND 27-69-7, MISSISSIPPI CODE OF 1972, TO ELIMINATE THE TOBACCO LICENSE TAX AND PERMIT ON RETAILERS AND TO REVISE SUCH LICENSE TAX; TO AMEND SECTION 27-69-13, MISSISSIPPI CODE OF 1972, TO INCREASE THE TAX ON CIGARETTES AND TO REVISE THE EXCISE TAX ON TOBACCO PRODUCTS OTHER THAN CIGARETTES; TO AMEND SECTIONS 27-69-15 AND 27-69-17, MISSISSIPPI CODE OF 1972, TO ELIMINATE THE AFFIXING OF STAMPS TO ALL TOBACCO EXCEPT CIGARETTES;

TO AMEND SECTION 27-69-27, MISSISSIPPI CODE OF 1972, TO REQUIRE FILING OF RETURNS TO PAY TOBACCO EXCISE TAXES; TO AMEND SECTIONS 27-69-9, 27-69-33, 27-69-35, 27-69-37, 27-69-41, 27-69-47, 27-69-49, 27-69-51, 27-69-53, 27-69-55 AND 27-69-57, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE FOREGOING PROVISIONS; TO REPEAL SECTION 27-69-29, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE CANCELLATION OF STAMPS AFFIXED TO TOBACCO CONTAINERS; TO REPEAL SECTION 27-69-45, MISSISSIPPI CODE OF 1972, WHICH PRESCRIBES FINES FOR VIOLATING CERTAIN PROVISIONS OF "THE TOBACCO TAX LAW"; TO AMEND SECTION 27-71-11, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT THE STATE TAX COMMISSION ADD A MARKUP TO THE COST OF ALL ALCOHOLIC BEVERAGES; TO AMEND SECTION 27-71-307, MISSISSIPPI CODE OF 1972, TO INCREASE THE EXCISE TAX ON BEER AND LIGHT WINE; TO IMPOSE A 3% SALES AND USE TAX ON SALES OF MOTOR VEHICLES BETWEEN PERSONS WHO ARE NOT LICENSED DEALERS; TO PROVIDE A CHECKOFF ON THE INDIVIDUAL INCOME TAX FORM TO ALLOW TAXPAYERS TO VOLUNTARILY CONTRIBUTE A PORTION OF THEIR TAX REFUND INTO AN EDUCATIONAL TRUST FUND; TO AMEND SECTION 37-19-7, MISSISSIPPI CODE OF 1972, TO REVISE THE SCALE OF TEACHERS' SALARIES UNDER THE MINIMUM EDUCATION PROGRAM BY INCREASING ALL BASE SALARIES IN EACH OF THREE CONSECUTIVE SCHOOL YEARS AND TO PLACE CERTAIN CONDITIONS ON STATE-FUNDED SALARY INCREASES ABOVE THE 1986-1987 SCHOOL YEAR; TO AMEND SECTION 37-19-21, MISSISSIPPI CODE OF 1972, TO INCREASE THE ALLOTMENT OF FUNDS UNDER THE MINIMUM EDUCATION PROGRAM FOR USE IN SUPPORTIVE SERVICES AND TO PROVIDE THAT LOCAL SCHOOL DISTRICT CONTRIBUTIONS TO GROUP INSURANCE PREMIUMS SHALL NOT BE DIVERTED FROM TEACHER SALARY AMOUNTS AS A CONDITION TO QUALIFYING FOR AN ADDITIONAL ALLOTMENT OF SUPPORTIVE SERVICES FUNDS; TO PROHIBIT STRIKES BY TEACHERS, GROUPS OF TEACHERS AND TEACHER ORGANIZATIONS AGAINST ANY PUBLIC SCHOOL DISTRICT; TO PROVIDE CRIMINAL SANCTIONS AGAINST LOCAL SCHOOL GOVERNING BOARDS OR ADMINISTRATORS WHO VIOLATE CERTAIN ANTI-STRIKE MEASURES; TO PROVIDE FOR THE ISSUANCE OF AN INJUNCTION TO ENJOIN SUCH STRIKES BY THE CHANCERY COURT AND TO PROVIDE PENALTIES FOR CONTEMPT; TO PROVIDE FOR THE TERMINATION OF THE EMPLOYMENT OF A STRIKING TEACHER AND TO PROVIDE THAT NO TEACHER MAY BE REEMPLOYED UNLESS THE COURT FINDS A PUBLIC NECESSITY THEREFOR; TO EXTEND SAID ANTI-STRIKE PROVISIONS TO OTHER PUBLIC EMPLOYEES AND PUBLIC EMPLOYERS; AND FOR RELATED PURPOSES.

Be it enacted by the Legislature of the State of Mississippi:

SECTION 1. Section 27-65-17, Mississippi Code of 1972, is amended as follows:

27-65-17. Upon every person engaging or continuing within this state in the business of selling any tangible personal property whatsoever there is hereby levied, assessed and shall be collected a tax equal to six percent (6%) of the gross proceeds of the retail sales of the business, except as otherwise provided herein.

Retail sales of farm tractors shall be taxed at the rate of one percent (1%) when made to farmers for agricultural purposes. Retail sales of other self-propelled farm implements, or farm implements used as attachments to or drawn by a tractor, or implements which are drawn by animals, when made to farmers for agricultural purposes shall be taxed at the rate of three percent (3%). The three percent (3%) rate shall also apply to retail sales of brooders, feeders and waterers to chicken farmers for use in chicken houses to produce poultry for the market, sales of mechanical and gravity feeders and waterers to livestock producers and sales of mechanical milking machines, milk tanks and coolers used in the production of milk for sale. All self-propelled equipment used in logging, pulpwood operations or tree farming shall be taxed at the rate of three percent (3%).

Retail sales of aircraft, automobiles, trucks, truck-tractors and mobile homes shall be taxed at the rate of three percent (3%).

Sales of manufacturing machinery or manufacturing machine parts when made to a manufacturer or custom processor for plant use only when said machinery and machine parts will be used exclusively and directly within this state in manufacturing a commodity for sale,

rental or in processing for a fee shall be taxed at the rate of one and one-half percent (1-1/2%).

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

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

Wholesale sales of beer and motor fuel shall be taxed at the rate of six percent (6%), and the retailer shall file a return and compute the retail tax on retail sales, but may take credit for the amount of the tax paid to the wholesaler on said return covering the subsequent sales of same property, provided adequate invoices and records are maintained to substantiate the credit.

Wholesale sales of soft drinks and syrup shall be taxed at the rate of three percent (3%) with no credit allowed the retailer on the retail tax return for the amount of the tax paid to the wholesaler.

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

Any person exercising any privilege taxable under Section 27-65-15 and selling his natural resource products at wholesale or to exempt persons shall pay the tax levied by said section in lieu of the tax levied by this section.

SECTION 2. Section 27-65-19, Mississippi Code of 1972, is amended as follows:

27-65-19. (1) Upon every person selling to consumers, electricity, current, power, potable water, steam, coal, natural gas, liquefied petroleum gas or other fuel, there is hereby levied, assessed and shall be collected a tax equal to six percent (6%) of the gross income of the business. Provided, gross income from sales to consumers of electricity, current, power, natural gas, liquefied petroleum gas or other fuel for residential heating, lighting or other residential noncommercial or nonagricultural use, and sales of potable water for residential, noncommercial or nonagricultural use shall be excluded from taxable gross income of the business. Provided further, upon every such seller using electricity, current, power, potable water, steam, coal, natural gas, liquefied petroleum gas or other fuel for nonindustrial purposes, there is hereby levied, assessed and shall be collected a tax equal to six percent (6%) of the cost or value of the product or service used. Provided further, that there is hereby levied, assessed and shall be collected a tax equal to one and one-half percent (1-1/2%) of the gross income of the business when the electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel is sold to or used by a manufacturer, custom processor or public service company for industrial purposes, which shall include that used to generate electricity, to operate an electrical distribution or transmission system, to operate pipeline compressor or pumping stations or to operate railroad locomotives.

The one and one-half percent (1-1/2%) industrial rate provided herein shall also apply when the electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel is sold to a producer or processor for use directly in the production of poultry or poultry products, the production of livestock and livestock products, the production of plants or food by commercial horticulturists, the processing of milk and milk products, the processing of poultry and livestock feed, and the irrigation of farm crops.

This one and one-half percent (1-1/2%) rate shall not apply to sales of fuel for automobiles, trucks, truck-tractors, buses, farm tractors or airplanes.

Upon every person operating a telegraph or telephone business for the transmission of messages or conversations between points within this state, there is hereby levied, assessed and shall be collected, a tax equal to six percent (6%) of the gross income of such business, with no deduction or allowance for any part of an intrastate rate charge because of routing across a state line.

(2) Persons making sales to consumers of electricity, current, power, natural gas, liquefied petroleum gas or other fuel for residential heating, lighting or other residential noncommercial or nonagricultural use or sales of potable water for residential, noncommercial or nonagricultural use shall indicate on each statement rendered to customers that such charges are exempt from sales taxes.

SECTION 3. Section 27-65-21, Mississippi Code of 1972, is amended as follows:

27-65-21. (1) Upon every person engaging or continuing in this state in the business of contracting or performing a contract or engaging in any of the activities, or similar activities, listed below for a price, commission, fee or wage, there is hereby levied, assessed and shall be collected a tax equal to three and one-half percent (3-1/2%) of the total contract price or compensation received from constructing, building, erecting, repairing, grading, excavating, drilling, exploring, testing or adding to any building, highway, street, sidewalk, bridge, culvert, sewer, irrigation or water system, drainage or dredging system, levee or levee system or any part thereof, railway, reservoir, dam, power plant, electrical system, air conditioning system, heating system, transmission line, pipeline, tower, dock, storage tank, wharf, excavation, grading, water well, any other improvement or structure or any part thereof when the compensation received exceeds Ten Thousand Dollars (\$10,000.00). Such activities shall not include constructing, repairing or adding to property which retains its identity as personal property. The tax imposed in this section is levied upon the prime contractor and shall be paid by him.

Amounts included in the contract price or compensation received representing the sale of manufacturing or processing machinery for a manufacturer or custom processor shall be taxed at the rate of one and one-half percent (1-1/2%) in lieu of the three and one-half percent (3-1/2%).

Provided, however, there shall be excluded from the tax levied by this section the contract price or compensation received for constructing, building, erecting, repairing or adding to any building, electrical system, air conditioning system, heating system or any other improvement or structure which is used for or primarily in connection with a residence or dwelling place for human beings. Such residences shall include homes, apartment buildings, condominiums, mobile homes, summer cottages, fishing and hunting camp buildings and similar buildings, but shall not include hotels, motels, hospitals, nursing or retirement homes, tourist cottages or other commercial establishments.

Sales of materials and services for use in the activities hereby excluded from taxes imposed by this section shall be subject to taxes imposed by other sections in this chapter.

The exclusion provided in this subsection shall apply to construction contracts entered into on or after July 1, 1983.

(2) Upon every person engaging or continuing in this state in the business of contracting or performing a contract or redrilling, or working over, or of drilling an oil well or a gas well, regardless of whether such well is productive or nonproductive, for any valuable consideration, there is hereby levied, assessed and shall be collected a tax equal to three and one-half percent (3-1/2%) of the total contract price or compensation received when such compensation exceeds Ten Thousand Dollars (\$10,000.00).

The words, terms and phrases as used in this subsection shall have the meaning ascribed to them as follows:

"Operator" — One who holds all or a fraction of the working or operating rights in an oil or gas lease, and is obligated for the costs of production either as a fee owner or under a lease or any other form of contract creating working or operating rights.

"Bottom-hole contribution" — Money or property given to an operator for his use in the drilling of a well on property in which the payor has no interest. The contribution is payable whether the well is productive or nonproductive.

"Dry-hole contribution" — Money or property given to an operator for his use in the drilling of a well on property in which the payor has no interest. Such contribution is payable only in the event the well is found to be nonproductive.

"Turnkey drilling contract" — A contract for the drilling of a well which requires the driller to drill a well and, if commercial production is obtained, to equip the well to such stage that the lessee or operator may turn a valve and the oil will flow into a tank.

"Total contract price or compensation received" — As related to oil and gas well contractors, shall include amounts received as compensation for all costs of performing a turnkey drilling contract; amounts received or to be received under assignment as dry-hole money or bottom-hole money; and shall mean and include anything of value received by the contractor as remuneration for services taxable hereunder. When the kind and amount of compensation received by the contractor is contingent upon production, the taxable amount shall be the total compensation receivable in the event the well is a dry hole. The taxable amount in the event of production when the contractor receives a production interest of an undetermined value in lieu of a fixed compensation shall be an amount equal to the compensation to the contractor if the well had been a dry hole.

(3) When the work to be performed under any contract is sublet by the prime contractor to different persons, or in separate contracts to the same persons, each such subcontractor performing any part of said work shall be liable for the amount of the tax which accrues on account of the work performed by such person when the tax heretofore imposed has not been paid upon the whole contract by the prime contractor.

When a person engaged in any business on which a tax is levied in Section 27-65-23, Mississippi Code of 1972, also qualifies as a contractor, and contracts with the owner of any project to perform any services in excess of Ten Thousand Dollars (\$10,000.00) herein taxed, such person shall pay the tax imposed by this section in lieu of the tax imposed by Section 27-65-23, Mississippi Code of 1972.

Any person entering into any contract over Seventy-five Thousand Dollars (\$75,000.00) as defined in this section shall, before beginning the performance of such contract or contracts, either pay the contractors' tax in advance, together with any use taxes due under Section 27-67-5, Mississippi Code of 1972, or execute and file with the Chairman of the State Tax Commission a good and valid bond in a surety company authorized to do business in this state, or with sufficient sureties to be approved by the commissioner conditioned that all taxes which may accrue to the State of Mississippi under this chapter, or under Section 27-67-5 and Section 27-7-5, Mississippi Code of 1972, will be paid when due. Such bonds shall be either (a) "job bonds" which guarantee payment when due of the aforesaid taxes resulting from performance of a specified job or activity regardless of date of completion; or (b) "blanket bonds" which guarantee payment when due of the aforesaid taxes resulting from performance of all jobs or activities taxable under this section begun during the period specified therein, regardless of date of completion. The payments of the taxes due or the execution and filing of a surety bond shall be a condition precedent to the commencing work on any contract taxed hereunder. Provided, that when any bond is filed in lieu of the prepayment of the tax under this section,

that the tax shall be payable monthly on the amount received during the previous month, and any use taxes due shall be payable on or before the twentieth day of the month following the month in which the property is brought into Mississippi.

Any person failing either to execute any bond herein provided, or to pay the taxes in advance, before beginning the performance of any contract shall be denied the right to perform such contract until he complies with such requirements, and the commissioner is hereby authorized to proceed either under Section 27-65-59, Mississippi Code of 1972, or by injunction to prevent any activity in the performance of such contract until either a satisfactory bond is executed and filed, or all taxes are paid in advance, and a temporary injunction enjoining the execution of such contract shall be granted without notice by any judge or chancellor now authorized by law to grant injunctions.

Any person liable for a tax under this section may apply for and obtain a material purchase certificate from the commissioner which may entitle the holder to purchase materials and services that are to become a component part of the structure to be erected or repaired with no tax due. Provided, that the contractor applying for the contractor's material purchase certificate shall furnish the State Tax Commission a list of all work sublet to others, indicating the amount of work to be performed, and the names and addresses of each subcontractor.

SECTION 4. Section 27-65-23, Mississippi Code of 1972, is amended as follows:

27-65-23. Upon every person engaging or continuing in any of the following businesses or activities there is hereby levied, assessed and shall be collected a tax equal to six percent (6%) of the gross income of the business, except as otherwise provided:

Air conditioning installation or repairs;

Automobile, aircraft, motorcycle, boat or any other vehicle repairing or servicing;

Billiards, pool, or domino parlors;

Bowling or tenpin alleys;

Burglar and fire alarm systems or services;

Car washing — automatic, self-service, or manual;

Computer software sales and services;

Cotton compresses or cotton warehouses;

Custom creosoting or treating, custom planing, custom sawing;

Custom meat processing;

Electricians, electrical work, wiring, all repairs or installation of electrical equipment;

Elevator or escalator installing, repairing or servicing;

Film developing or photo finishing;

Foundries, machine or general repairing;

Furniture repairing or upholstering;

- Grading, excavating, ditching, dredging or landscaping;
- Hotels, motels, tourist courts or camps, trailer parks;
- Insulating services or repairs;
- Jewelry or watch repairing;
- Laundering, cleaning, pressing or dyeing;
- Marina services;
- Mattress renovating;
- Office and business machine repairing;
- Parking garages and lots;
- Plumbing or pipe fitting;
- Public storage warehouses;
- Refrigerating equipment repairs;
- Radio or television installing, repairing, or servicing;
- Renting or leasing personal property used within this state;
- Services performed in connection with geophysical surveying, exploring, developing, drilling, producing, distributing, or testing of oil, gas, water and other mineral resources;
- Shoe repairing;
- Storage lockers;
- Telephone answering or paging services;
- Termite or pest control services;
- Tin and sheet metal shops;
- TV cable systems;
- Vulcanizing, repairing or recapping of tires or tubes;
- Welding; and
- Woodworking or wood turning shops.

There is hereby levied, assessed and shall be collected a tax of Fifteen Cents (15¢) per bale of cotton ginned for the privilege of operating any cotton gin, regardless of gin ownership or ownership of cotton ginned or any charge made or not made for the service.

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

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

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

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

A lessor may deduct from the tax computed on the rental income from tangible personal property a credit for sales or use tax paid to this state at the time of purchase of the specific personal property being leased or rented until such credit has been exhausted.

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

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

SECTION 5. Section 27-69-3, Mississippi Code of 1972, is amended as follows:

27-69-3. When used in this chapter:

(a) The word "state" shall mean the State of Mississippi as geographically defined, and any and all waters under the jurisdiction of the State of Mississippi.

(b) The words "State Auditor" shall mean the Auditor of Public Accounts of the State of Mississippi, or his legally appointed deputy, clerk, or agent.

(c) The word "commissioner" shall mean the Chairman of the State Tax Commission of the State of Mississippi, and his authorized agents and employees.

(d) The word "person" shall mean any individual, company, corporation, partnership, association, joint venture, estate, trust, or any other group, or combination acting as a unit, and the plural as well as the singular, unless the intention to give a more limited meaning is disclosed by the context.

(e) The word "consumer" shall mean a person who comes into possession of tobacco for the purpose of consuming it, giving it away, or disposing of it in any way by sale, barter or exchange.

(f) The word "tobacco" shall mean any cigarettes, cigars, cheroots, stogies, smoking tobacco (including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco, or substitutes therefor, prepared in such manner as to be suitable for smoking in a pipe or cigarette) and including plug and twist chewing tobacco and snuff, when such "tobacco" is manufactured and prepared for sale or personal consumption. All words used herein shall be given the meaning as defined in the regulations of the Treasury Department of the United States of America.

(g) The words "first sale" shall mean and include the first sale, or distribution of such tobacco in intrastate commerce, or the first use or consumption of such tobacco within this state.

(h) The words "drop shipment" shall mean and include any delivery of tobacco received by any person within this state, when payment for such tobacco is made to the shipper, or seller by or through a person other than a consignee.

(i) The word "distributor" shall include every person, except retailers as defined herein, in the state who manufactures or produces tobacco or who ships, transports, or imports into this state, or in any manner acquires or possesses tobacco, and makes a first sale of the same in the state.

(j) The word "wholesaler" shall include dealers, whose principal business is that of a wholesale dealer or jobber, who is known to the retail trade as such, and whose place of business is located in Mississippi or in a state which affords reciprocity to wholesalers domiciled in Mississippi, who shall sell any taxable tobacco to retail dealers only for the purpose of resale.

(k) The word "retailer" shall include every person, other than a wholesale dealer, as defined above, whose principal business is that of selling merchandise at retail, who shall sell, or offer for sale tobacco to the consumer. The sale of tobacco in quantity lots by retailers to other retailers, transient vendors, or other persons, shall not be construed as wholesale and shall not qualify such retailer for a permit as a wholesaler.

(l) The word "dealer" shall include every person, firm, corporation or association of persons, except retailers as defined herein, who manufacture tobacco for distribution, for sale, for use or for consumption in the State of Mississippi.

The word "dealer" is further defined to mean any person, firm, corporation or association of persons, except retailers as defined herein, who imports tobacco from any state or foreign country for distribution, sale, use, or consumption in the State of Mississippi.

(m) The words "distributing agent" shall include every person in the state who acts as an agent of any person outside the State of Mississippi, by receiving tobacco in interstate commerce, and storing such tobacco in this state subject to distribution, or delivery upon order from said person outside the state to distributors, wholesalers, retailers and dealers.

(n) The words "transient vendor" shall mean and include every person commonly and generally termed "peddlers" and every person acting for himself, or as an agent, employee, salesman, or in any capacity for another, whether as owner, bailee, or other custodian of tobacco, and going from person to person, dealer to dealer, house to house, or place to place, and selling or offering for sale at retail or wholesale tobacco, and every person who does not keep a regular place of business open at all times in regular hours, and every person who goes from person to person, dealer to dealer, house to house, or place to place, and sells or offers for sale tobacco which he carries with him, and who delivers the same at the time of, or immediately after the sale, or without returning to the place of business operations (a permanent place of business within the state) between the taking of the order and the delivery of the tobacco, or

All persons who go from person to person, house to house, place to place, or dealer to dealer, soliciting orders by exhibiting samples, or taking orders, and thereafter making delivery of tobacco, or filling the order without carrying or sending the order to the permanent place of business, and thereafter making delivery of the tobacco pursuant to the terms of the order, or

All persons who go from person to person, place to place, house to house, or dealer to dealer, carrying samples and selling tobacco from samples, and afterwards making delivery

without taking and sending an order therefor to a permanent place of business for the filling of the order, and delivery of the tobacco, or the exchange of tobacco having become damaged or unsalable, or the purchase by tobacco of advertising space, or

All persons who have in their possession, or under their control, any tobacco offered, or to be offered for sale or to be delivered, unless the sale or delivery thereof is to be made in pursuance of a bona fide order for the tobacco, to be sold or delivered, said order to be evidenced by an invoice or memorandum.

(o) The words "contraband tobacco" shall mean all tobacco found in the possession of any person whose permit to engage in dealing in tobacco has been revoked by the commissioner; and any cigarettes found in the possession of any person to which the proper tax stamps have not been affixed; and any cigarettes improperly stamped when found in the possession of any person; and all other tobacco upon which the excise tax has not been paid.

(p) The word "sale" means an exchange for money or goods, giving away, or distributing any tobacco as defined in this chapter.

(q) The words "forty-eight (48) hours" and "seventy-two (72) hours" shall mean two (2) calendar days and three (3) calendar days, respectively, excluding Sundays and legal holidays.

(r) The word "stamp" or "stamping," or the import of such word, when used in this chapter, shall mean any manner of stamp or impression permitted by the commissioner that carries out the purposes of the chapter in clearly indicating upon the packages of cigarettes taxed the due payment of the tax.

(s) "Manufacturer's list price" shall mean the full sales price at which tobacco is sold or offered for sale by a manufacturer to the wholesaler or distributor in this state without any deduction for freight, trade discount, cash discounts, special discounts or deals, cash rebates, or any other reduction from the regular selling price. In the event freight charges on shipments to wholesalers or distributors are not paid by the manufacturer, then such freight charges required to be paid by the wholesalers and distributors shall be added to the amount paid to the manufacturer in order to determine "manufacturer's list price." In the case of a wholesaler or distributor whose place of business is located outside this state, the "manufacturer's list price" for tobacco sold in this state by such wholesaler or distributor shall in all cases be considered to be the same as that of a wholesaler or distributor located within this state.

SECTION 6. Section 27-69-5, Mississippi Code of 1972, is amended as follows:

27-69-5. Every distributor, wholesaler or dealer who desires to become engaged in the sale or use of tobacco upon which a tax is required to be paid shall file with the commissioner an application for a permit to engage in such business. The application for a permit shall be filed on blanks to be furnished by the commissioner for that purpose. The application must be subscribed and sworn to by the person owning the business, or having an ownership interest therein. If the applicant is a corporation, a duly authorized agent shall execute the application. The application shall show the name of such person, and in case of partnership, the name of each partner thereof, the person's post office address, the location of the place of business to which the permit shall apply, and the nature of the business in which engaged, and any other information the commissioner may require. No distributor, wholesaler or dealer shall sell any tobacco until such application has been filed, the prescribed permit fee paid, and the permit obtained. Said permit shall expire twelve (12) months from date of issuance, or from the expiration date of the permit previously issued, but may be renewed upon like application, and upon payment of the permit fee.

An application shall be filed, and a permit obtained for each place of business owned or operated by each distributor, wholesaler or dealer.

Upon receipt of the application and permit fee hereinafter provided for, the commissioner may issue to every distributor, wholesaler or dealer, for the place of business designated, a nonassignable permit, authorizing the sale or use of tobacco in the state. Said permit shall provide that the same is revocable, and shall be forfeited, or suspended upon violation of any provision of this chapter, or any rule or regulation adopted by the commissioner. If such permit is revoked or suspended, said distributor, wholesaler or dealer shall not sell any tobacco from such place of business until a new permit is granted, or the suspension of the old permit removed.

A permit cannot be transferred from one person to another, and the permit shall at all times be publicly displayed by the distributor, wholesaler or dealer in his place of business so as to be seen easily by the public. A permit may be refused to any person previously convicted of violations of this chapter.

SECTION 7. Section 27-69-7, Mississippi Code of 1972, is amended as follows:

27-69-7. In addition to the excise tax on each person selling, using, consuming, handling or distributing tobacco as hereinafter provided, it is hereby made the duty of the commissioner to collect a privilege tax of One Hundred Dollars (\$100.00) for each permit issued to every distributor, wholesaler or dealer doing business in this state.

Foreign manufacturers, wholesalers, or distributors may secure a permit from the commissioner, upon the payment of a fee of One Hundred Dollars (\$100.00), and shall agree in an application sworn to and certified, that the excise tax shall be paid on all shipments of taxable tobacco into the State of Mississippi, that the required tax stamps shall be affixed to cigarettes, and that the commissioner, or his authorized agent, shall be permitted to inspect and audit their records of tobacco shipments into the State of Mississippi at any and all reasonable times.

It is further provided that any person who engages in any business for which a permit is required by this chapter, before procuring a permit, or after the permit is cancelled, shall be guilty of a misdemeanor, and punishable by a fine of not exceeding Five Hundred Dollars (\$500.00), nor less than Fifty Dollars (\$50.00).

SECTION 8. Section 27-69-9, Mississippi Code of 1972, is amended as follows:

27-69-9. In addition to the penalties imposed in this chapter, after the second offense for any violation, the commissioner shall revoke any permit which may have been issued to any person, or persons, violating any provisions of this chapter, or any rules or regulations promulgated by the commissioner under authority of this chapter, after giving such person ten (10) days' notice in writing of his intention to revoke such permit. Any person whose permit shall have been revoked by the commissioner shall thereafter be prohibited from exercising any privileges taxable under the provisions of this chapter.

The commissioner, in the event a permit is revoked, is required to notify by letter, all manufacturers, wholesalers and distributors having a permit required by this chapter, that such permit has been revoked, and such manufacturer, wholesaler and distributor is henceforth prohibited from selling taxable tobacco to such dealer.

The commissioner may, however, for good cause shown, reinstate such permit upon the filing of a bond with the commissioner, in the amount not to exceed One Thousand Dollars (\$1,000.00), which bond must be signed by two (2) persons in addition to the party whose permit has been revoked, and such bond must be approved by the clerk of the circuit court of the county in which the persons signing the bond are domiciled, and upon such other conditions as the commissioner may prescribe.