

Title 35 Mississippi Department of Revenue

Part I Administrative

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Chapter 01 Administrative Practices and Procedures for the Department of Revenue

- 100 Statutory Authority
This Regulation is promulgated pursuant to the authority and requirements of the Mississippi Administrative Procedures Law.
- 101 Applicability
This Regulation shall be applicable to all matters falling within the jurisdiction of the Mississippi Department of Revenue and the Commissioner except to the extent the laws of the State of Mississippi provide otherwise. This Regulation is in addition to and supplements those statutory provisions which may be applicable.
- 102 General Purpose
The Department of Revenue regulates most tax matters in the State of Mississippi. The Department’s responsibilities also include the regulation of alcoholic beverages, property taxes, motor vehicle tags and titles, issuing permits and certain business registrations. The Department and Commissioner interpret the statutes that they are charged to administer and enforce.
- 103 Definitions
When used in this Regulation:
1. "Agency", "Department" or "Department of Revenue" means the various offices, bureaus, and divisions of the Mississippi Department of Revenue that carry out the functional duties and responsibilities of the Commissioner as authorized by law.
 2. "Board of Tax Appeals" means the three-member appellate body as legally constituted and authorized by statute to hear appeals of Review Board decisions and certain other decisions and actions by the Agency.
 3. "Commissioner" means the Commissioner of the Department of Revenue.
 4. "Denial" means the final decision of the Agency staff to deny the claim, request for waiver or application being considered. In this context, the Review Board staff is

not included in the Agency staff. Denial does not mean the act of returning or refusing to consider a claim, request for waiver, or application for permit, title or tag by the Agency staff due to a lack of information and/or documentation, unless the return or refusal is in response to a representation by the person who filed the claim, request for waiver, or application in issue that the missing information and/or documentation cannot or will not be provided.

5. "Executive Director" means the Executive Director of the Board of Tax Appeals.
6. "Hearing Officer" means an individual selected by the Chairman of the Review Board from a pool of qualified individuals designated by the Commissioner to serve as administrative hearing officers to conduct a hearing on an appeal of a notice of intent to suspend, surrender, seize or revoke a permit, tag, title, IFTA license or IRP registration.
7. "IFTA License" means a permit, license or decal that the Agency is authorized to issue or revoke under the Interstate Commercial Carriers Motor Fuel Tax Law or the International Fuel Tax Agreement.
8. "IFTA Licensee" means a person holding the IFTA license, applying for an IFTA license or renewing an IFTA license.
9. "IRP Registration" means the registration of a vehicle under the provisions of the International Registration Plan.
10. "IRP Registrant" means a person in whose name a vehicle or vehicles are registered under the provisions of the International Registration Plan.
11. "IRP Credentials" means the cab card and license plate issued by the Commissioner or Agency in accordance with the International Registration Plan.
12. "Last known address," when referring to the mailing of a notice of intent to suspend, revoke or order the surrender and/or seizure of the permit, IFTA license, IRP registration, IRP credentials, tag or title, or to the mailing of a denial of a permit, IFTA license, IRP registration, tag or title, means the official mailing address of the person to whom the notice is being sent as the address appears in the record of the Agency. "Last known address," when referring to the mailing of an assessment, warrant, offset notice, statement of account and other tax notices and letters, means the official mailing address of the taxpayer to whom the notice is being sent as the address appears in the record of the Agency. The official mailing address is typically the address from the taxpayer's most recently filed and properly processed tax return, unless the Agency has received clear and concise notification of a different address. All other references to last known address mean the official mailing address that a hearing officer or the Review Board has on file for the addressee in connection with -their appeal. The addressee is presumed to have received any document or item mailed to -their last known address. It is the responsibility of the addressee to make sure that the last known address or official mailing address on file with the Agency and the Review Board is correct.
13. "Mail", "mailed" or "mailing" means placing a document or item in First Class United States Mail, postage prepaid, addressed to the person to whom the document or item is to be delivered at the last known address of that person. Where a person is represented by a representative in an administrative appeal before a hearing officer or the Review Board, the terms "mail", "mailed" or "mailing" shall also mean placing the document or item referred to in First Class United States Mail, postage

prepaid, to the last known address of that person's representative. Mailing to the representative of a taxpayer, permittee, IFTA licensee, IRP registrant tag holder or title interest holder shall constitute mailing and notice to the taxpayer, permittee, IFTA licensee, IRP registrant, tag holder or title interest holder.

14. "Permit" means a type of license or permit that the Agency is authorized to issue, suspend or revoke, such as a sales tax permit, a beer permit, a tobacco permit, a dealer license, or designated agent status, but does not include: (i) any type of permit issued under the Local Option Alcoholic Beverage Control Law, Miss. Code Ann. Section 67-1-1, et seq. or under the Mississippi Native Wine Law of 1976, Miss. Code Ann. Section 67-5-1, et seq.; (ii) an IFTA license; or (iii) an IRP registration, including the IRP credential issued as a result of IRP registration.
15. "Permittee" means a person holding a permit, applying for a permit or renewing a permit.
16. "Person" means a natural person, partnership, limited partnership, corporation, limited liability company, estate, trust, association, joint venture, other legal entity or other group or combination acting as a unit, and includes the plural as well as the singular in number. Person includes the state, counties, municipalities, other political subdivisions and any agencies, institutions or instrumentalities thereof, but only when used in the context of a taxpayer, permittee, IFTA licensee, IRP registrant, tag holder, or title interest holder, or in the context of a person requesting guidance, oral advice, a letter ruling or a declaratory opinion.
17. "Refund Claim" means a claim made in writing by a taxpayer and received by the Agency, wherein the taxpayer indicates that he overpaid taxes to the Agency and requests a refund of the overpayment and/or a credit against current or future taxes.
18. "Representative" or "designated representative" means an individual who represents a person in an administrative appeal before a hearing officer of the Agency or before the Review Board. The representative must obtain from the person being represented a written Power of Attorney authorizing the representative to appear on that person's behalf, unless that person is also present.
19. "Resident", when used to describe a taxpayer or petitioner, means a natural person whose residence and place of abode are within the State of Mississippi.
20. "Review Board" means the Board of Review as legally constituted and authorized by statute and comprised of those qualified employees appointed by the Commissioner of the Department of Revenue.
21. "Tag" means a type of license tag or plate for a motor vehicle or trailer that the Agency is authorized to issue or approve for issuance under the Mississippi Motor Vehicle Privilege Tax Law, Miss. Code Ann. Sections 27-19-1, et seq., or under the Motor Vehicle Dealer Tag Permit Law, Miss. Code Ann. Sections 27-19-301, et seq. The term "tag" includes personalized license tags. "Tag" does not include other types of license tags or plates issued by county tax collectors.
22. "Tag holder" means the person in whose name a tag is registered or the person applying for a tag.
23. "Tag penalty" means any of the penalties imposed under Miss. Code Ann. Sections 27-19-63 and 27-51-43 for any delinquency in the payment of motor vehicle privilege tax and ad valorem tax on a motor vehicle, and can be waived by the Agency for good reason shown. Pursuant to Miss. Code Ann. Section 27-51-103,

the imposition of the ad valorem tag penalty at the maximum rate of twenty-five percent (25%) also results in ineligibility for the credit against motor vehicle ad valorem taxes. Waiver of the twenty-five percent (25%) delinquency penalty by the Agency under Miss. Code Ann. Section 27-51-43 shall reinstate credit eligibility.

24. "Tax" means any tax, fee, penalty and/or interest that the Agency is required or authorized by general law or by local and private law to administer, assess, and collect.
25. "Taxpayer" means any person or fiduciary liable for or having paid any tax to the Agency.
26. "Title" means a title to a motor vehicle or manufactured housing issued by the Agency under the Mississippi Motor Vehicle Title Law, Miss. Code Ann. Section 63-21-1 et seq.
27. "Title interest holder" means the owner of or lienholder on a motor vehicle or manufactured home as indicated on a title issued by the Agency, or as indicated on an application to the Agency for the issuance of a title.

104 Functional Duties of the Agency

The Mississippi Department of Revenue is statutorily responsible for the majority of revenue collection activities for the State. The core functional duties of the Agency are identified as follows:

1. Tax Administration;
2. Compliance enforcement;
3. Wholesale distribution of alcoholic beverages;
4. Enforcement of local option and prohibition laws;
5. Ensuring equalization of statewide property appraisal; and
6. Administration of motor vehicle and title laws.

105 Obtaining Information

The purpose of this section is to describe how a taxpayer or an interested person may obtain available information, other than information concerning proposed rules, from the Agency. Copies will be \$2.50 for the first page and \$0.50 for each additional page per document. Additional research and mailing charges may apply.

1. Compliance with Mississippi Public Records Act of 1983.
 - a. Any person who wishes to inspect or obtain a copy of any public record in the possession of the Agency must make a written request to the Legal Division of the Agency. The request must describe the record sought and whether it is to be provided through personal inspection or reproduction. However, all requests for copies of returns and reports should be made to the Office that administers the tax in the manner described in paragraph 2 below.
 - b. Upon receipt of the request, the Agency shall notify the requesting party of the cost or the time and place of access to the public record. The requesting party must then forward payment for the costs of producing the records. Every reasonable effort will be made to respond to the request within seven (7) working days from the receipt of the request if the fee to produce such records has been paid. If the Agency is unable to produce a public record by the seventh (7th) working day from the date the request was received, the agency

- will contact the requesting party with an explanation of the delay and a notice that the record will be produced within fourteen (14) working days from the receipt of the request. By mutual agreement of the parties the records may be supplied after fourteen (14) working days. Records may not be removed from the Agency for reproduction purposes.
- c. If the Commissioner denies the requesting party access to any record, the requesting party will be notified in writing of the basis of the denial within seven (7) working days from the receipt of the request.
2. Obtaining copies of tax returns or applications filed with the Agency.
 - a. All tax returns, including documents supporting those returns and other tax forms required to be filed with the Agency, are confidential and specific information relating to a particular taxpayer is not public information. The Agency may not release confidential information to anyone other than the taxpayer to whom that information pertains unless specifically authorized by the taxpayer, specifically authorized by statute, or directed to do so by a proper judicial order.
 - b. A taxpayer may request a copy of his personal filings by submitting a written request. The request must be signed by the taxpayer. In the case of a return of an individual, this request must be signed by that individual. In the case of an income tax return filed jointly, this request must be signed by either of the individuals who filed the return. In the case of a partnership, this request must be signed by a partner who was a member of the partnership during the period of time covered by the return requested. In the case of a return filed by a member-managed limited liability company, this request must be signed by a person who is a member of the limited liability company. In the case of a return filed by a manager-managed limited liability company, this request must be signed by a manager of the limited liability company. In the case of a return of a corporation, this request must be signed by a principal officer of the corporation and attested to by the corporation's secretary or another officer.
 - c. A taxpayer may request copies of his return or information to be released to other persons by providing the Agency a signed document authorizing the release of the returns.
 - d. The request for copies of returns should be submitted to the Department in writing. The written request must include the type of tax return, the tax period(s) requested, taxpayer name, and the tax account and/or taxpayer identification number. All information contained in any written request for copies of returns is submitted under penalty of perjury.
 3. Title and Motor Vehicle Tag Information
 - a. In order to obtain information from an individual motor vehicle record maintained by the Agency, the person requesting the information must qualify under the guidelines set by federal statute. The Agency has promulgated Title 35, Part VII, Subpart 1, Chapter 01 of the Mississippi Administrative Code in accordance with the Federal Driver's Privacy Protection Act, which protects certain information contained on motor vehicle records and lists permitted uses for which records may be obtained. In order to request information, the

appropriate form must be completed and forwarded to the Agency for processing along with the appropriate fees. The information request form and all other applicable information are available on the Agency's website.

- b. Any title and motor vehicle tag information received by the requesting party is privileged and may not be disclosed to anyone else unless that disclosure is a permitted use. Please note that using the information acquired from motor vehicle records for any use other than a permitted use may subject the offender to criminal fines and other damages.
4. Publications
 - a. Persons may receive information through instructions included with forms, notices written concerning law changes or procedural changes, booklets, and other publications of the Agency. This information is provided to answer frequently asked questions but is not intended to be all-inclusive. In any situation where the information provided does not adequately address the person's particular circumstances, it is advisable to seek additional guidance.
 - b. Interested parties may, for a fee, order a copy of these publications by sending a request to the Communications Director, however, much of this information may be found free of charge on the Agency's website.
 5. Website
 - a. Statistical information may be obtained from the Agency's website. Many forms are available online and may be printed for use.
 - b. The website also contains links to other websites, including links operated by other government agencies, tax related organizations, and tax software providers. The Agency has no control over the content included on websites other than its own.
 - c. An individual may check the status of his individual income tax refund online. Persons may also check the validity of certain tax permits or licenses on the website.

106 Adoption of Rules and Regulations

106.01 Authority to Adopt Rules and Regulations

The Commissioner is authorized by statute to promulgate rules and regulations consistent with and complementary to the law in order to enforce the laws administered by the Agency. A rule or regulation is a statement of general applicability that implements, interprets, or prescribes policy, or describes a procedure or practice of the Agency and may include responsibilities that are not specifically required by statute or by an existing rule or regulation. Rules and regulations do not include those items excluded in Miss. Code Ann. Section 25-43-1.102(i) from the definition of a rule. The terms rule and regulation are synonymous with each other and the Commissioner uses both terms in referring to the rules promulgated and adopted. The following discussion of the rule-making process applies not only to rules but also to regulations.

106.02 Rule Adoption Process

With the exception of emergency rules as outlined herein below, the adoption of a new rule or the amendment of an existing rule is a multi-step process including the following:

1. Drafting the rule or rule amendment.
When the need for a rule or rule amendment is determined, a proposed rule is drafted by Agency personnel for review and discussion with the Commissioner.
2. Preparing an economic impact statement.
 - a. An estimate of the costs and benefits of implementing and enforcing the proposed rule to the public, the Agency, or any other government entity; an analysis of the effect of the new or amended rule on small businesses and on public health, safety and welfare; an estimate of the anticipated effect on state or local revenues; and a description of any alternative methods that might achieve the same purpose as the new or amended rule will be prepared by the Agency when required and as provided by Miss. Code Ann. Section 25-43-3.105. A concise summary and the full text of the economic impact statement, if required, will be filed with the Secretary of State for publication along with the Commissioner's notice of intent to adopt a rule or rule amendment. Any additional information that the Agency determines may be useful will be included in the statement.
 - b. If the economic impact statement reflects that a proposed rule may have an economic effect on small business, the Agency shall submit a copy of the proposed rule and economic impact statement to the Small Business Regulatory Review Committee for review and comment.
 - c. During the public comment period, any interested party may submit to the Agency contact person identified in the notice of intent to adopt a rule, in writing, any specific concerns about the economic impact statement.
3. Notice of intent to adopt a rule or rule amendment.
 - a. A notice of intent to adopt a rule or rule amendment will be prepared, which will include information on how interested persons may comment on the proposal. The notice of intent to adopt a rule will include a statement of the purpose and effect of the rule, a summary of the rule, opportunities for public comment and the text of the rule. A copy of an economic impact statement, along with a concise summary of the statement, will be attached to the notice when required.
 - b. The notice will be sent to the Secretary of State and to interested parties who are on the Agency Rule Notification Register.
4. Providing an opportunity for interested parties to comment.
 - a. The notice of intent to adopt a rule or rule amendment will advise the public of its right to comment and provide information concerning how, when, and where to respond. The Agency must provide no less than twenty (20) days from the date the notice of intent to adopt a rule or rule amendment and economic impact statement are filed during which persons may submit written comments.
 - b. Interested or affected individuals or entities may comment in writing at any time during the public comment period. All written comments should be mailed or delivered to the Office of Tax Policy within the provided time period for public comment.
 - c. The Commissioner, at his discretion, may hold an oral proceeding prior to the final adoption of a proposed rule or amended rule. An oral proceeding may be

- demanded by a political subdivision, an agency, or ten (10) or more persons if the Commissioner does not provide a time for an oral proceeding on the proposed rule or amendment. Public comment will be accepted at the hearing as provided in this section. Written comments received or comments made at the hearing are not required to be incorporated into the final rule but will be considered by the Commissioner in drafting the final rule or rule amendment.
- d. The Commissioner may designate an officer to preside over the hearing on the proposed new or amended rule and to document attendance and comments made. The presiding officer will be an employee of the Agency.
 - e. The hearing date will be scheduled for a date that is at the minimum twenty (20) days after the notice of the proposed rule is filed with the Secretary of State. The hearing will be open to the public. Anyone wishing to make a presentation at the hearing should notify, in writing, the Office of Tax Policy no less than seventy-two (72) hours prior to the scheduled hearing time. The written request to speak must include a brief description of what the speaker plans to present at the hearing and the position the speaker plans to take on the proposed rule.
 - f. The presiding officer may limit the time allotted to each speaker. The number of speakers addressing a specific position on an issue may be limited by the presiding officer to prevent undue repetition at the hearing. In the event the number of speakers representing a specific position is limited, the speakers selected to speak to their position will be determined based upon the order in which their requests were received. The speaker will be notified of the time he is allotted to speak, or will be notified that he has been denied the opportunity to speak to prevent undue repetition or for failure to timely request the opportunity to speak at the hearing.
 - g. A record of all persons requesting the opportunity to speak will be maintained. This record will include the written requests to speak at the public hearing and any denials for untimely filing of a request to participate in the public hearing or to prevent repetition. All persons participating or unable to participate in the hearing may submit written comments at any time during the public comment period.
 - h. All persons in attendance will be requested to sign a register to document their presence at the hearing. A printed agenda including the names of all speakers and their positions on issues concerning the proposed rule may be provided to those in attendance.
5. Filing the rule for adoption
The Commissioner may change, alter or delete any provisions of the proposed rule after the public comment period unless such change, alteration, or deletion would prevent the rule from being finally adopted per Miss. Code Ann. Section 25-43-3.107. The Commissioner will file the final form of the rule or rule amendment with the Secretary of State. The effective date is thirty (30) days after filing with Secretary of State unless another later date is specified in the law or rule.
 6. Obtaining information on a proposed rule
 - a. The Agency will maintain the Agency Rule Notification Register listing the persons who have requested notice of all proposed rule changes. The Agency

will send notice of all proposed rules or rule amendments to these persons by mail. A *minimum* fee of \$25 will be charged for each notice that is mailed, and a bill for the fee will accompany all notices. Failure to remit the fee as billed will result in the forfeiture of any future mailings until the fee has been paid. Any interested person may be included on the mailing register for all proposed notices pursuant to a written request to the Office of Tax Policy. It is the requestor's responsibility to provide and keep a correct address on file with the Agency.

- b. If a person desires notice of all proposed rules and agrees to receive the notices by e-mail, there will be no charge for this service. Any interested person may be included in the register of persons to be notified by email by written request to the Office of Tax Policy. If email preference is not specified, notice will be sent by mail, which will include the fee.
 - c. A person may also request a copy of a proposed rule or rule amendment on a one-time basis by contacting the Office of Tax Policy. For any mailed document, the minimum fee is still applicable.
 - d. Additional information regarding the adoption of rules and regulations may be obtained on the Agency's website.
7. Rulemaking record
- a. The Agency will maintain a current rulemaking docket that contains the subject matter of rules under active consideration within the Agency.
 - b. The rulemaking docket shall include all information related to the rule in progress, including:
 - i. The subject matter of the proposed rule;
 - ii. Reference to all published notices relating to the proceeding;
 - iii. Where a written submission or a written request for an opportunity to make an oral presentation on the proposed rule may be inspected;
 - iv. The time during which written submissions may be made;
 - v. Where and when oral presentations may be made;
 - vi. Where any economic impact statement and written requests for the issuance of other information concerning an economic impact statement may be personally inspected;
 - vii. The current status of the proposed rule; and
 - viii. The date of each rule's adoption and when the rule becomes effective.
 - c. All materials, submissions, reports and other information relating to each rule adoption process and procedure will be maintained at the main office of the Mississippi Department of Revenue and will be available for public inspection by contacting the Office of Tax Policy.
8. Repeal of a rule
- If the Commissioner determines that an existing rule should be repealed, the process followed will be the same as for the adoption of a new rule or an amendment to a rule.
9. Termination of the proceeding
- The Commissioner may determine that the rule or rule amendment should not be adopted after the notice of proposed rule but prior to adoption of the rule. In such

event, a notice of termination will be filed with the Secretary of State and notice will be provided to those persons listed on the Agency Rule Notification Register.

10. Emergency rules

- a. The Commissioner may determine that an imminent peril to the public health, safety or welfare requires adoption of a rule with less than twenty-five (25) days notice as normally provided.
- b. In such event, the Commissioner will notify the Secretary of State of the need for an emergency rule, the form of the rule, and the effective dates of the rule. There will be no public hearing or public comment period provided.
- c. The Commissioner will determine if the need for the emergency rule continues, and if so, will begin the process to adopt the rule permanently as provided in this section.

107 Administrative Hearings and Appeals

This section describes the administrative appeal process to be followed when a person is aggrieved by certain actions of the Agency, and includes a description of the types of actions that may be appealed, how to file appeals, the scheduling and conduct of administrative hearings, time limits for filing appeals and withdrawals of appeals. The intent of the administrative appeal process is to secure a just resolution or decision.

107.01 Administrative Appeal Process

With the exception of an appeal of a tag penalty, this section does not describe the administrative appeal process relating to actions of the Agency regarding ad valorem taxes and homestead exemptions. An administrative appeal from these actions shall be as prescribed by statute. This section also does not describe the administrative appeal process for actions taken by the Agency under the Local Option Alcoholic Beverage Control Law or under the Mississippi Native Wine Act of 1976. The administrative appeal process for such ABC actions is described in the ABC Regulations of the Agency.

1. Informal Review

- a. A person may seek an informal review of any assessment or other action believed to be incorrectly issued or any refund believed to be improperly denied.
- b. When an auditor or examiner determines additional tax is due, the person assessed with the tax should first attempt to resolve any questions with the auditor or examiner. If unable to reach an agreement with the auditor regarding the audit results, a conference with the auditor's supervisor or the supervisor's designee may be arranged. This conference should provide opportunity to both parties to gain a thorough understanding of the basis of the assessment and to make sure that the underlying facts are correct and complete.
- c. An informal review may be granted for any situation, but is not required before seeking an administrative appeal. The person may continue to attempt to resolve an issue informally with Agency staff once the formal appeal process has begun but the informal review does not toll the time limit to appeal to the Review Board.

2. Representation

A person may represent himself or may choose to have a representative at any point throughout the appeal process. Hearings before the Review Board or a hearing officer are considered confidential and are not open to the public; however, the appellant may permit another person or persons to attend the hearing and to participate as deemed appropriate or necessary.

3. Interest and penalties will continue to accrue on unpaid balances. Filing an appeal does not stop interest charges from accruing on any unpaid tax liability. In some situations, penalties may also continue to accrue.
4. Written requests for administrative appeals
 - a. The taxpayer or person appealing must request a hearing in writing. A Review Board Appeal Petition Form, which can be found on the Agency's website, may be used to make the hearing request. The written request must include the following information:
 - i. All requested information about the taxpayer or person appealing including name, address, contact phone number, amount of assessment, period, and account number;
 - ii. The issue being appealed;
 - iii. An explanation of the reason for the appeal;
 - iv. The amount of tax, fees, interest and/or penalty being contested, if any;
 - v. The decision that the person appealing would like the Review Board to make;
 - vi. All requested information about the person's representative, if applicable, including the representative's name, address, contact phone number, and relationship to taxpayer, accompanied by a Power of Attorney authorizing the representative to act on the person's behalf;
 - vii. The mailing address at which the person appealing wishes to receive correspondence from the Review Board; and
 - viii. A copy of what is being appeal.
 - b. The Petition must be signed and dated by the taxpayer or person appealing. The appeal must be received within the time period prescribed for the appeal. If the appeal is postmarked by the deadline for the appeal but not received by that date, it cannot be considered due to untimeliness.
 - c. It is the responsibility of the person appealing to provide and maintain an official mailing address on file with the Review Board. Any change of address during the appeal process must be made known in writing and addressed to the Review Board. This notice of address change is for the appeal process only and does not make any address change to tax account information maintained by the Agency.
 - d. The timeline for appeals is explained further in this section. A request for appeal not received within the time periods provided below will be considered untimely and returned to the taxpayer or person appealing.
5. Notice of hearing
 - a. A person or his authorized representative will be notified of the hearing by mail at his last known address. The last known address will be the mailing address provided in the written request for appeal or any subsequent address change notification to the Review Board.

- b. The hearing notice will contain the time, place and date of the hearing. Notice to the person's or taxpayer's authorized representative constitutes notice to the person or taxpayer.
- 6. Continuance of hearing
 - a. A request for a continuance of the hearing will be routinely granted if the request is received within ten (10) days after the notice of the hearing is mailed. If the request for continuance is received beyond ten (10) days from the date the notice of hearing is mailed, then the determination whether to continue the hearing will be made by the Chairman of the Review Board.
 - b. The Department of Revenue will not be responsible for delay in the delivery of mail.
- 7. Confidential hearings

All hearings are closed to the public due to the confidential nature of the subject matter. However, through written authorization, the person appealing may waive the right to a closed hearing.
- 8. Items subject to administrative appeal are:
 - a. Assessment of tax;
 - b. Denial of refund claim;
 - c. Denial of waiver of tag penalty;
 - d. Denial of a claim to tax credits or incentives;
 - e. Suspension, surrender, seizure or revocation of permit, tag or title;
 - f. Denial of application for a permit, IFTA license, IRP registration, tag or title;
 - g. Suspension or revocation of IFTA license or IRP registration.
- 9. Items not subject to administrative appeal include but are not limited to:
 - a. Bond amounts;
 - b. Declaratory Opinions;
 - c. Letter rulings;
 - d. Oral or written advice;
 - e. Collection actions including but not limited to liens and garnishments;
 - f. Diversions or distributions of tax revenue;
 - g. Refund offsets used to pay debts owed to other government agencies.
- 10. Request for removal of voting member of Review Board
 - a. Any person may request that a member of the voting panel of the Review Board be replaced or that a member not participate in a hearing if it appears that member's impartiality might be questioned by a reasonable person knowing all the circumstances, or for other reasonable grounds.
 - b. A written or verbal request for removal of a voting member from the decision-making process stating the reason the member's impartiality is questioned must be made by the taxpayer or person appealing before the commencement of a Review Board hearing. Such request should be made to the Chairman or the presiding member of the Review Board. Any denial of the request is not subject to appeal.
- 11. Timeline for filing appeals
 - a. Assessment of tax, denial of refund or denial of a waiver of tag penalty:
 - i. A taxpayer, aggrieved by an assessment of tax, penalty or interest, a denial of a refund or a denial of a waiver of tag penalty, may apply for a

- hearing before the Review Board. The taxpayer must submit a request in writing to the Chairman of the Review Board within sixty (60) days from the date of mailing. The matter will become final after this sixty (60) day period if it is not appealed.
- ii. If the Review Board determines that the assessed tax, penalty or interest is due, the taxpayer must pay the assessment or appeal to the Board of Tax Appeals within sixty (60) days from the mailing date of the order of the Review Board. A taxpayer wishing to appeal an order of the Review Board must submit the request for appeal in writing to the Executive Director of the Board of Tax Appeals. At the time of filing his appeal with the Executive Director, the taxpayer shall also file a copy of his written appeal with the Chief Counsel of the Legal Division. The matter will become final after this sixty (60) day period if it is not appealed.
- b. Suspension, surrender, seizure or revocation of a permit, tag, or title:
- i. If the Agency determines that action against a permit, IFTA license, IRP registration, tag or title is necessary, the permittee, tag holder or title interest holder will be notified by mail of the Agency's intention to revoke, suspend or order the surrender or seizure of the permit, tag or title. The notice will advise that the permit, IFTA license, IRP registration, tag or title will be revoked or suspended unless the permittee, licensee, registrant, tag holder or title interest holder files with the Review Board a written request for a hearing on the intended action within thirty (30) days from the mailing date of the notice. The matter will become final after thirty (30) days if it is not appealed.
 - ii. If the permittee, IFTA licensee, IRP registrant, tag holder or title interest holder is aggrieved by the determination of the Review Board or hearing officer, the aggrieved party may appeal in writing to the Board of Tax Appeals within thirty (30) days of the mailing date of the order. At the time of filing his appeal with the executive director, the permittee, IFTA licensee, IRP registrant, tag holder or title interest holder shall also file a copy of his written appeal with the Chief Counsel of the Legal Division. The matter will become final after this thirty (30) day period if it is not appealed.
- c. Denial of an application for a permit, tag, or title
- i. If the Agency determines that an application for a permit, IFTA license, IRP registration, tag or title should be denied, the applicant will be notified either by mail or in person of the Agency's intention to deny the permit, IFTA license, IRP registration, tag or title. If the denial involves an application for a title, the notice will also be mailed to the designated agent who submitted the title application and any other alleged title interest holders shown on the application. If the applicant or any title interest holder appearing on the application is aggrieved by the denial of application, the aggrieved party shall file a written appeal with the Review Board within thirty (30) days of the mailing date of the notice. The matter will become final after this thirty (30) day period if it is not appealed.

- ii. If the applicant or the title interest holder remains aggrieved by the determination of the Review Board, the aggrieved party may appeal in writing to the Board of Tax Appeals within thirty (30) days of the mailing date of the order. The matter will become final after this thirty (30) day period if it is not appealed.
 - d. When an appeal, objection or other document is required by statute, regulation or the Agency to be filed with the Review Board within any number of days, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, legal holiday or any other day when the offices of the Agency are in fact closed, with or without legal authority, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, a legal holiday or any other day when the office of the Agency is closed. Legal holidays for the Agency are found at Miss. Code Ann. § 3-3-7(1). *When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. Mailing does not constitute filing, and the time period within which the appeal, objection or other document has to be filed is not extended because of mailing.*
- 12. Review Board hearing
 - a. With the exception of matters regarding alcoholic beverage control and Agency actions related to Ad Valorem Tax, a taxpayer or person in disagreement with an assessment, refund or other appealable action of the Agency may request a hearing before the Review Board. Three members of the Review Board shall constitute a quorum and may hear any matter before the Review Board; however, an appeal of the intent to revoke, suspend, or order for seizure or surrender of a permit, tag, or title may be heard by a panel of the Review Board or by a hearing officer.
 - b. Upon timely receipt of a written request from the person appealing or his authorized representative, the Review Board shall promptly schedule a hearing for consideration of the appeal. At the hearing, the Review Board shall decide the issues presented according to the applicable law and the facts.
 - c. A decision in favor of the person appealing may be made without a hearing when the facts are not in dispute, the issues are clearly identified, or the law has been applied in the same manner in similar situations in previous decisions.
 - d. There will be no official transcript or recording made of a Review Board hearing. The official record of the hearing will be the minutes and orders of the Review Board, which are confidential for all tax matters. Review Board hearings shall be informal and the rules of evidence shall be relaxed.
 - e. In any appeal covered by this Chapter, the burden of proof shall be on the appellant to prove that the action of the Agency is incorrect.
 - f. The person requesting the hearing or the person's authorized representative will be asked to discuss the facts supporting the person's claim and to provide an explanation of how the law supports that claim. Representatives of the

Agency may also be asked to discuss the facts in support of the Agency's action or cause.

- g. The Review Board may request the person appealing the matter or Agency staff to provide additional information and/or documents during the course of its review. Time limits for submission of the additional information or documents will be established by the Chairman of the Review Board. If the person from whom information or documents are requested fails to respond to the request in the time provided, the Review Board may decide the appeal without the supplemental documents or information.
 - h. An order will be issued after the Review Board has fully considered the information provided at the hearing, any post-hearing information submitted to the Review Board and the laws specific to the case. The Chairman of the Review Board will prepare the order and mail it to the person or authorized representative. Notice to the authorized representative constitutes notice to the person appealing.
 - i. The Review Board may elect to uphold the assessment, to amend the assessment, to issue a revised assessment, to issue a refund or credit, to remand the issue to the originating division for further review or to take any other action it deems appropriate. If the person remains aggrieved by the decision of the Review Board, the action may be appealed to the Board of Tax Appeals within the time limits set forth above.
13. Withdrawal of an appeal
- a. An appeal before a hearing officer or the Review Board may be withdrawn at any time by the taxpayer or person filing the appeal. The withdrawal may be made voluntarily by the person or may occur involuntarily under the conditions listed below.
 - b. An involuntary withdrawal of an appeal may occur as result of the person's failure to appear at a scheduled hearing, failure to timely provide a written appeal in lieu of attendance at a hearing or by any other act or failure that the body hearing the appeal determines is a failure on the part of the person to prosecute his appeal. An involuntary withdrawal will be documented in the minutes providing the basis of the withdrawal.
 - c. A voluntary withdrawal of an appeal must be delivered in writing by the person or authorized representative to the Chairman of the Review Board prior to the scheduled time of the hearing on the appeal.
 - d. Following the withdrawal of an appeal, the action shall become final and not subject to further review by the Review Board, Board of Tax Appeals or a court. The Agency shall then proceed with any action in accordance with the law.
14. Board of Tax Appeals Hearing
- a. Any person aggrieved by a final Order of the Review Board may seek an administrative review of that decision by the Board of Tax Appeals by filing a written appeal with the Executive Director of the Board of Tax Appeals as provided by law.
 - b. The person filing the appeal with the executive director shall also file a copy of his written appeal with the Chief Counsel of the Legal Division.

108 Requests for Guidance

1. Any taxpayer or person seeking information concerning their responsibilities and requirements under the laws administered by the Agency may request advice and guidance concerning those obligations. The requests may be through an informal means such as oral advice or letter rulings, or formally through a declaratory opinion.
2. Taxpayers or other persons may also obtain publications of the Agency that provide information useful in complying with the laws administered by the Agency. Most printed publications of the Agency may also be found on the Agency's website.

108.01 Oral Advice

1. Many questions may be answered easily over the telephone or in person by an agent of the Commissioner. Oral advice is considered advisory only and is non-binding.
2. Taxpayers or persons who have complicated questions or issues centered on their own particular facts and circumstances should seek a letter ruling on the matter or request further advice from the Agency as provided below.

108.02 Letter Rulings

1. Taxpayers or other persons may seek guidance by submitting a written request for a letter ruling to the Office of Tax Policy.
2. When asking for instruction on a specific issue, it is necessary to provide adequate information in order to accurately answer the question. Because a request is based on one person's specific facts and circumstances, the response is restricted to the taxpayer or person making the request for information and the specific facts involved.
3. Letter rulings are considered informal guidance; however, the taxpayer or person requesting the letter ruling may rely on the response absent a subsequent law or regulation change or written retraction and provided that the information presented is factual and complete with no material omissions and that no changes have been made with regard to the information provided.
4. The Agency will refuse to issue a letter ruling under the following circumstances:
 - a. The matter is outside the primary jurisdiction of the Agency.
 - b. The question presented lacks clarity, has insufficient facts to provide a conclusive determination or is too vague or too broad to be answered.
 - c. A pending or active audit, criminal tax investigation, anticipated litigation, administrative action or other determination before the Agency, Board of Tax Appeals or a court of law which may either answer the question presented or otherwise make an answer unnecessary.
 - d. The question presented in the request concerns the legal validity of a statute or rule.
 - e. No clear answer is determinable.
 - f. The question presented involves the application of a criminal statute or facts that may constitute a crime.
 - g. The answer to the question presented would require the disclosure of information that is privileged or otherwise protected by law from disclosure.

- h. The request involves an issue that may adversely affect the interests of the State, the Agency or any of the Agency's officers or employees in any litigation that is pending or may reasonably be expected to arise.
- 5. If the Agency should at a later date determine that its response was incorrect, the letter ruling will be retracted in writing and the effect of the retraction will be prospective from the date of the retraction letter.
- 6. Absent a written retraction of the letter ruling, a law or rule change or a change in the person's particular circumstances that affects the issue being addressed, a letter ruling will be valid for a period of seven (7) years from the date of its issuance. At the end of the seven (7) year period, the person should review and update the information in his original request for information and re-submit the question to the Agency.
- 7. Any letter rulings written by the Agency prior to June 30, 2005 are no longer valid. A recipient of a ruling issued prior to that date should review their letter ruling to determine if an update is necessary.
- 8. The Agency will accept an anonymous request for a letter ruling, but the response will not be binding until the identity of the person to whom the request pertains has been disclosed to the Agency. The name and other identifying information of the anonymous person should be provided within ninety (90) days of the date of the letter ruling. The letter ruling will be considered non-binding if the identity of the person is not provided within the time period specified.
- 9. A response to a person's authorized representative constitutes notice to that person. It is the person's continuing obligation to inform the Agency of the identity and address of its representative.

108.03 Declaratory Opinions

- 1. Scope of the rules
These sections set forth the Agency's rules governing the form and content of requests for declaratory opinions, and the Agency's procedures regarding the requests, under Mississippi Code Ann. Section 25-43-2.103.
- 2. Persons who may request declaratory opinions
Any person with a substantial interest in the subject matter on which he is requesting information may submit a written request to the Agency for a declaratory opinion by following the procedures specified below. Substantial interest in the subject matter means that the interest must be direct, immediate, not remote in consequence, and must surpass the common interest of all citizens.
- 3. Subjects that may be addressed in declaratory opinions
The Agency will issue declaratory opinions regarding subject matters that are within the primary administrative responsibilities of the Agency. Subject matters within the oversight of the Agency include the applicability of specified facts to a statute administered or enforced by the Agency, or a rule promulgated by the Commissioner. The Agency will not issue a declaratory opinion regarding a statute or rule beyond the administrative responsibility of the Agency.
- 4. Circumstances in which declaratory opinions will not be issued

The Agency may, for good cause, refuse to issue a declaratory opinion. Without limiting the generality of the foregoing sentence, the circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

- a. The matter is outside the primary jurisdiction of the Agency.
 - b. The question presented lacks clarity, the facts provided are insufficient to provide a conclusive determination, or the information is too vague or too broad to provide an answer.
 - c. A pending or active audit, criminal tax investigation, anticipated litigation, administrative action, or other determination before the Agency, Board of Tax Appeals or a court of law, which may either answer the question presented or otherwise make an answer unnecessary.
 - d. The statute, rule or order on which a declaratory opinion is sought is clear and does not require interpretation in order to answer the question presented.
 - e. The confidentiality waiver on the Declaratory Opinion Transmittal Form is not signed and provided to the Agency with the request for a declaratory opinion.
 - f. The request fails to contain the information required by these rules, or the requestor failed to follow the procedure set forth in these rules.
 - g. The request seeks to resolve issues that have become moot, are abstract or involve multiple hypotheticals such that the requestor is not substantially affected by the rule or statute on which a declaratory opinion is sought.
 - h. The request pertains to a hypothetical situation, the underlying facts of which do not, and are not anticipated to, affect or pertain to the requesting party.
 - i. The question presented concerns the legal validity of a statute or rule.
 - j. The requesting party is not directly affected by the application of the statute, rule or regulation.
 - k. No clear answer is determinable.
 - l. The question presented involves the application of a criminal statute or facts that may constitute a crime.
 - m. The answer to the question presented would require the disclosure of information that is privileged or otherwise protected by law from disclosure.
 - n. The request involves an issue that may adversely affect the interests of the State, the Agency or any of the Agency's officers or employees in any litigation that is pending or may reasonably be expected to arise.
5. Form of the request for a declaratory opinion
- a. A written request for a Declaratory Opinion, including a completed Declaratory Opinion Transmittal Form, is required. Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper. Requests may be in the form of a letter addressed to the Office of Tax Policy or in the form of a pleading as might be addressed to a court.
 - b. All requests must be mailed or delivered to the Office of Tax Policy. The request and the envelope in which it is delivered shall clearly state that it is a request for declaratory opinion. Oral, telephonic, or facsimiled requests are not acceptable. The request must include a completed transmittal form as

- prescribed by the Commissioner and an executed confidentiality waiver signed by the taxpayer or person requesting the declaratory opinion.
- c. Each request must include the full name, telephone number and mailing address of the requestor. Each request shall be signed by the person filing the request or a duly authorized representative. The signing party shall attest that the request complies with the requirements set forth in these rules. A declaratory opinion will have no effect if it is later determined the request did not comply with the requirements of this rule.
 - d. A request must be limited to a single set of facts and each request shall contain the following:
 - i. Clear identification of the statute, rule or order at issue;
 - ii. A concise statement of the issue or question presented for the declaratory opinion;
 - iii. A complete and accurate statement of all facts relevant to a resolution of the question presented;
 - iv. The identity of all known persons involved or impacted by the factual situation described in the request, including their relationship to the facts, their names, their mailing addresses, and their telephone numbers;
 - v. A statement sufficient to show that the person making the request is substantially affected by the statute, rule, or regulation.
 - e. A request may contain relevant information to support a position or proposed opinion suggested by the requestor. The argument may be submitted in the form of a brief containing a full discussion of the basis for the request, including any legal authorities in support of the position of the requestor.
 - f. The Agency may request that additional information be submitted by any interested party.
6. Time for Mississippi Department of Revenue's response
- a. Within forty-five (45) days after the receipt of a request for a declaratory opinion that complies with the requirements of these rules, the Agency will respond in writing by one of the following methods:
 - i. Issue an opinion declaring the applicability of the specified statute, rule, or order to the specified circumstances;
 - ii. Decline to issue a declaratory opinion, stating the reasons for its action;
 - iii. Agree to issue a declaratory opinion or a written decision by a specified time later than forty-five (45) days but no later than ninety (90) days after receipt of the written request.
 - b. The forty-five (45) day period will begin on the first business day after the request is received by the Agency.
 - c. The response may be sent to the authorized representative in lieu of the requesting party or the person signing the request.
7. Public availability of requests and declaratory opinions.
Declaratory opinions and requests for declaratory opinions are available for public inspection. The taxpayer must sign a confidentiality waiver to authorize the Agency to disclose the contents of a declaratory opinion.

All notices under Section 30 of Senate Bill 2971 of the 2021 Regular Session must be sent to Incentives@dor.ms.gov.

110 Contacting the Agency

The Department of Revenue may be contacted in person or by telephone during regular business hours, or by U.S. Mail, electronic mail or facsimile. A current listing of contact information for the Department of Revenue may be found at www.dor.ms.gov or obtained by calling (601) 923-7700.

111 (Reserved)

35.1.01 revised effective June 24, 2021

Chapter 02 Taxpayer Records and Document Retention

100 The purpose of this regulation is to outline the general requirements imposed on every taxpayer to prepare and retain all records necessary to determine the correct tax liability with respect to taxes administered by the Department of Revenue. These requirements are imposed on all taxpayers without regard to whether they use paper, computer or electronic processes, systems or technology.

101 For the purpose of this regulation, these terms shall be defined as follows:

1. “Commissioner” means the Commissioner of Revenue of the Mississippi Department of Revenue.
2. “Department” means the Mississippi Department of Revenue.
3. “Designated representative” means an individual, business, private service provider or employee who represents a taxpayer in the preparation and/or maintenance of records as provided in the regulation.
4. “Person” means a natural person, partnership, limited partnership, corporation, limited liability company, estate, trust, association, joint venture, other legal entity or other group or combination acting as a unit, and includes the plural as well as the singular in number.
5. “Records” means written and/or computerized documentation that pertains to a person’s financial affairs in which transactions are entered and summarized, including but not limited to, assets and liabilities, monetary transactions, contracts, or loans.
6. “Source Document” means the original records containing the key details of a transaction, including its date, purpose and amount. Source documents provide the documentary evidence or proof that a transaction occurred and are critical to verify and support the information provided on a tax return. Typical source documents include, but are not limited to, wage and tax statements, sales invoices, purchase invoices, cancelled checks, deposit slips and point of sale records, such as cash register tapes.

- 102 Every taxpayer and every designated representative, if applicable, is required to keep accurate, complete, and legible records. Records should be adequate to provide reasonable assurance that all taxable transactions and income are properly identified and recorded. Records must be supported by source documents. In addition:
1. Records must be kept in good order and condition. Each source document should have a unique identifier, usually a number or alphanumeric code. Pre-numbering of commonly used forms, such as sales invoices, helps to classify transactions and to identify and locate missing source documents.
 2. Records including financial statements, reports and any information used to prepare a tax return must be supported by source documents that verify and confirm the income, expenses, and credits reported on tax returns and financial statements.
 3. Records must be written in English.
 4. Source documents such as bills, receipts, checks, invoices, and cash register tapes must include the transaction date whether printed on paper or created and maintained in an electronic format.
 5. Records and source documents must be available for review by the Department upon request.
 6. For business taxpayers, the records must be kept at the place of business. If the principal place of business is outside Mississippi, the records of the taxpayer may be kept at their principal place of business.
- 103 A taxpayer or his designated representative, if applicable, should keep separate business and personal records with transactions clearly identified as business or personal. If a taxpayer owns multiple businesses, the records for each business must be kept separate.
- 104 If a taxpayer makes deposits or transfers of non-business income or money into a business account(s), sufficient documentation must be maintained to support the source of those funds. Such as:
1. If the non-business funds were a loan, maintain a copy of the signed loan instrument that shows the lenders name, date and amount of the loan.
 2. If the non-business funds were a transfer from a personal account or another business account, or if the funds were a refund, rebate or similar, maintain documentation to support the source of that money, including but not limited to cancelled checks and deposit slips.
- 105 Records may be considered inadequate if:
1. There are missing, lost, or incomplete documents or records and/or the records are not in a form that can be audited by the Department.
 2. The taxpayer or his designated agent, if applicable, failed or refused to provide records to the Department.
 3. The records do not clearly demonstrate receipts or transactions and/or whether those receipts are subject to tax.
 4. The records do not substantiate the taxable status of purchases and/or show that a business's purchases correlate to business activity.

- 106 If adequate records necessary to determine tax due are not kept, 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 may take actions that include, but are not limited to:
1. Disallowing exemptions, credits, or reduced rates of tax.
 2. Making assessments of due and unpaid taxes.
 3. Suspending or revoking permits.
- 107 In most cases, records are to be maintained no less than three (3) years from the date the return was filed. There are instances when records should be kept for longer periods, such as:
1. If a notice of assessment or denial of refund has been issued to the taxpayer by the Department and the taxpayer files an appeal, the records for the periods covered by the notice of the assessment or denial of refund must be preserved and retained until the issue has been resolved.
 2. Maintaining records that will be needed to complete a future return, such as when the records have information related to a net operating loss or net casualty loss.
 3. A return has been subject to a federal audit.
- 108 Examples of records to maintain include, but are not limited to the following:
1. General ledgers, sales journals, purchase order books, cash receipts books, cash disbursement books
 2. Canceled checks, bank statements, sales contracts, purchase invoices
 3. Profit and loss statements, balance sheets
 4. State tax returns and reports, all schedules or work papers used in the preparation of tax reports or returns
 5. Copies of federal income tax returns filed with the Internal Revenue Service including all work papers, schedules, and similar records
 6. Tax filings with other states including all work papers, schedules, and similar records
 7. Records of loans, services, other non-sales transactions, and any non-business income
 8. Any other records necessary to establish income, deductions, credits, expenses, accounting methods, or other information utilized in determining the Mississippi tax liability.
- 109 The requirements contained in this regulation are not to be construed as an exclusive list for each person. Record keeping and retention requirements will vary by tax type, business type, and on an individual basis.

110 (Reserved)

35.1.02 revised effective July 1, 2018

Chapter 03 Substitute and Reproduced Tax Forms

- 100 The Department of Revenue (Department) has established guidelines for software developers and any individual or business that plans to market, distribute, or file substitute or reproduced tax forms.
- 101 Any form, other than an official Department form, that is printed or computer produced/programmed is a substitute form. All substitute forms produced by software providers must be submitted to the Department for approval prior to being included in a software package for use by the general public. Substitute forms must be approved annually. Department provides providers with a template and a key to use in creating their versions of Department forms. Copies of the *Mississippi Guidelines for Providers of Substitute Forms* are available on request.
- 102 Provider's responsibility:
1. To comply with the Substitute Forms Guidelines, and
 2. To obtain written approval from the Department for all forms printed and/or distributed, as well as forms that will be generated by tax preparation software, and
 3. To ensure that all forms actually generated by the software match the form designed by the Department.
- 103 A taxpayer may file returns printed from a provider tax preparation software package if the forms printed from the packager have been approved by the Department. If the forms printed from the package have been approved, then the provider should have an email from the Department approving these forms. These forms should be printed by a laser printer or laser quality printer.
- 104 Taxpayer's responsibility:
1. To file their return using an original Department form, or
 2. To file their return on an approved provider form, or
 3. To file their return using a tax preparation software package that generates the form(s) approved by the Department, or
 4. To require their tax preparer to either use the official form or use a tax preparation software package that generates the form(s) approved by the Department.
- 105 In all cases above, the taxpayer must file the original return with the original signature. Photocopies are not acceptable.
- 106 Tax Preparer's responsibility:
1. To prepare each taxpayer's return using an original Department form, or
 2. To use an approved provider form, or
 3. To use a tax preparation software package that generates the form(s) approved by the Department.
- 107 In all cases above, the tax preparer must file the original return with an original signature. Photocopies are not acceptable.

- 108 A penalty of twenty-five dollars (\$25.00) may be imposed for each form in each return not in compliance with this rule whether said form is a photocopy or an unapproved form. This penalty may be imposed on the taxpayer, tax practitioner, and/or provider.
- 109 Photocopies will only be accepted in limited circumstances as follows:
1. If a taxpayer must file a duplicate of their return after the original filing, a photocopy is acceptable. A letter clearly stating that it is a duplicate and the reason the original is not available must be attached.
 2. Photocopies (including photocopies of federal forms) may be used as attachments only if specifically allowed in the instructions that accompany each form. For example, the Department will accept a photocopy of the individual income Federal Schedule A of Itemized Deductions or the Federal Balance Sheet attached to the corporate return as an attachment.

110 (Reserved)

35.I.03 revised effective July 1, 2018

Chapter 04 Electronic Filing and Payments

100 General

101 Miss. Code Ann. Section 27-3-83, provides the Department of Revenue (Department) may specify by rule or regulation the manner and method in which tax returns, supporting schedules, information returns, applications for permits, licenses or titles, powers of attorney, review board appeal petitions, and other documents and information may be filed with the Department. Such filings may be accomplished by submitting the forms or documents manually or by submitting them electronically.

102 Miss. Code Ann. Section 27-3-81, provides the Department, consistent with the cash management policies of the State Treasurer (Treasurer), may require any person owing \$20,000.00 or more in connection with any return, report or other document filed with the Department to remit any such tax liability by any such means established by the Department, with the approval of the Treasurer, which ensures the availability of such funds to the state on the date of payment to the State Treasury (Treasury).

103 Definitions

1. “ACH” – Automated Clearing House – A central distribution and settlement point for the electronic clearing of debits and credits between financial institutions rather than the physical movement of paper items.
2. “ACH Credit” – The electronic funds transfer payment method where the transactions are initiated and generated by the taxpayer, cleared through the system for deposit to the Treasury.
3. “ACH Debit” – The electronic funds transfer payment method where transactions are generated by the Department upon the taxpayer’s instruction and cleared through the ACH system for deposit to the Treasury.

4. "Addenda Record" – The information required by the Department in an ACH Credit transfer in approved electronic format.
5. "Department of Revenue" – The Mississippi Department of Revenue.
6. "Due Date" – The date on or before which a return filing or payment is required to be made by a taxpayer under a revenue law of this state.
7. "EFT" – Electronic Funds Transfer – Any transfer of funds initiated through an electronic terminal, telephone instrument, computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account using the methods specified in this rule.
8. "Payment Information" – The data which the Department requires of a taxpayer making an EFT payment.
9. "State Treasury" – The Treasury of the State of Mississippi.
10. "TAP" – Taxpayer Access Point.
11. "Taxpayer" – Any person required to file and remit an amount to the Department whether it is for a tax, fee, license, or any other obligation. For the purpose of this rule, "person" includes any individual, firm, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and includes the plural as well as the singular number.
12. "Wire Transfer" – An instantaneous electronic funds generated by the taxpayer to the Treasury.

104 In addition to the filing requirements listed in Section 102 above, the Department has implemented an online electronic filing program, known as TAP. This program allows taxpayers to register a tax account, file certain tax returns and related documents and make payment electronically.

105 The Department may specify the manner and method in which the electronic filing and the electronic payment may be made for each type of tax administered by the Department. In addition, the Department shall provide the necessary written instructions and procedures to the taxpayer and/or their agent in a reasonable time frame in advance of any due dates as to allow compliance with filing requirements. Notification shall be made at least ninety (90) days in advance of the requirement to begin filing. Any taxpayer or taxpayer's agent may voluntarily file tax returns and related documents electronically.

106 The Department requires taxpayers subject to the following taxes to file tax returns, related documents and any corresponding tax payments by TAP.

1. 911 Emergency Fee
2. Beer Excise
3. City Utility
4. Compressed Gas and Decals
5. County Sales and Use (Casual Auto and Use Tax Collected by County)
6. Environmental Protection Fee
7. Gaming
8. Gas and Fuel Users
9. Gas Severance
10. Gasoline

11. International Fuel Tax Agreement (IFTA)(if more than 10 jurisdictions or power units)
12. Insurance Premium
13. International Registration Plan (IRP) (if more than 10 jurisdictions or power units)
14. Lubricating Oil
15. Motor Vehicle Rental
16. Motorcycle ATV Trauma Care
17. Municipal Gas Utility Regulatory
18. Nuclear in Lieu
19. Occupancy
20. Oil Severance
21. Prepaid Wireless E911
22. Public Utility Regulatory
23. Railcar In Lieu
24. Railroad Regulatory
25. Seawall
26. Special Fuel
27. Statewide Privilege
28. Tire Disposal
29. Tobacco Excise and Stamps
30. TVA In Lieu
31. Wage or Withholding Information Returns with 25 or more W-2s or 1099s
32. Waste Disposal Fee (Hazardous and Non-Hazardous)

107 Procedures for ACH Debit Payment

ACH Debit payments are submitted by logging into the taxpayer's TAP account.

1. The payment must be submitted on TAP by midnight Central Standard Time on the due date to be considered timely.
2. The payment of taxes through EFT does not relieve the taxpayer from filing the appropriate tax returns or applicable information returns required by the Department.

108 Procedures for ACH Credit Payment

1. The Department allows taxpayers to use the ACH Credit payment method. The Department may require a taxpayer to make future payments by the ACH Debit payment method if a taxpayer has repeatedly failed to correctly complete the payment transactions.
2. The payment must be transferred to the State of Mississippi's bank account by the due date of the taxes. A taxpayer must ensure that the financial institution originating the transaction does so in sufficient time for the payment to be deposited as immediately available funds to the Treasury on or before the appropriate due date of payment. If the due date falls on a holiday or weekend, payment must be initiated to be received by the State of Mississippi's bank on the first business day after the due date.

3. The taxpayer is responsible for ensuring that the financial institution initiating the ACH payment provides the correct information in the TXP Banking Convention Addenda Record of the Payment Transactions.
4. A separate ACH Credit payment must be initiated for each tax type liability.
5. All ACH Credit transactions must utilize the NACHA CCD+ entry with a TXP Banking Convention addenda record.

109 Payment Procedures for Wire Transfers

1. Taxpayers who, due to circumstances beyond their reasonable control, are unable to initiate a timely payment of tax through the ACH Debit method may request the Department's permission to transmit payments of tax to the Treasurer's account via wire transfer. Prior to initiating the transmission, the taxpayer must contact the Department. The taxpayer must present the emergency situation which prevents timely compliance under the ACH Debit method and request approval to wire the tax payments in question to the Treasury.
2. Taxpayers who are granted approval to use wire transfer as an exception to the ACH Debit method will be given specific instructions regarding the payment information that must accompany the wire transfer.
3. Wire transfers which are not received by the Treasury on or before the due date will constitute late payment and the applicable late filing penalty, interest and loss of taxpayer discount will apply.
4. As originator of an ACH transaction, the cost of each wire transfer will be paid by the taxpayer.

110 Entering the password to the taxpayer's online account will provide authorization for payment and filing of tax returns. This shall serve the same function as signing and dating a document which shall also be a certification under oath that all information contained in the return, report, application for permit or document is true and correct.

111 Any person knowingly submitting information in a return, report or other document electronically filed with the Department that is false or affixing an electronic signature to a return, report or document electronically filed with the Department on behalf of another person or entity without the authority to do so shall be guilty of perjury and, upon conviction, shall be punished by imprisonment in the State Penitentiary for a term not exceeding ten (10) years.

112 Any electronic funds transfer used to pay tax amounts due for an electronically filed return or report shall not be considered a completed payment by the taxpayer until the funds are properly credited to the account of the Department.

113 All payment authorizations, returns, reports, application for permits and other documents electronically filed with the Department in accordance with the method and manner specified by the Department shall be preserved electronically by the Department for the period of time required for that return, report, application for permit or document by any applicable record retention schedule. The Department will determine the form and medium by which the payment, return, report, application for permit and document shall

be preserved. The reproduction of any return, report or document maintained electronically, or the reproduction of information from such returns, reports or documents placed on computer storage devices by electronic means, shall be deemed to be the original of such return, report or document when certified by the Commissioner under seal in accordance with Miss. Code Ann. Section 27-3-83.

114 (Reserved)

200 E-filing Mandate

201 Pass-Through Entities that issue 100 or more K-1's must file their return electronically.

202 Corporations, S Corporations and Partnerships with assets of \$250,000 or more must file electronically for tax years beginning on or after January 1, 2019 and all subsequent tax years.

203 (Reserved)

35.1.04 revised effective December 1, 2019

Chapter 05 Collection Procedures for Levy of Monies

100 Purpose

This regulation is promulgated to established a uniform method and procedure for the administration of Distress Warrants for the Levy of Monies Owed to Taxpayer(s) issued by the Chairman and Commissioner of Revenue and it is intended to apply to all such Distress Warrants issued by the Chairman and Commissioner of Revenue regardless of the type of tax involved in the Distress Warrant. This regulation is promulgated to supplement all other rules and regulations adopted by the Mississippi State Tax Commission and/or the Chairman and Commissioner of Revenue for the various taxes for which a Distress Warrant for the Levy of Monies Owed to Taxpayer(s) can be issued.

101 Distress Warrant for the Levy of Monies Owed to Taxpayer(s)

Pursuant to Miss. Code Ann. S27-3-33 (4), as amended, warrants issued by the Chairman and Commissioner of Revenue of the Mississippi State Tax Commission for the collection of taxes shall be used to levy on salaries, compensation or other monies due the delinquent taxpayer. Such warrants for the levy of monies will be issued in the same manner as any warrant for the collection of taxes is issued by the Chairman and Commissioner of Revenue of the Mississippi State Tax Commission. It shall be issued under the official seal of The Mississippi State Tax Commission, and only after a tax lien has been enrolled on the judgment roll of the county wherein the taxpayer resides or the monies are to be levied. After issuance, the warrant shall be served by mail or by hand delivery of said warrant by an agent of the Mississippi State Tax Commission to the person or entity named therein as garnishee. The agent shall execute a Proof of Service indicating on what date and upon whom the warrant was served. This Proof of Service is

to be sent by the agent to the Mississippi State Tax Commission where it is to be retained as a part of the file on said warrant.

102 Answer of the Person or Entity Served with Distress Warrant for the Levy of Monies Owed to Taxpayer(s)

Within thirty (30) days from the date of service of the Distress Warrant for the Levy of Monies Owed to Taxpayer(s), the person or entity served shall file with the Mississippi State Tax Commission an Answer to said distress warrant for the levy of monies wherein the person or entity answers, under oath, the questions set forth on said Distress Warrant for the Levy of Monies Owed to Taxpayer(s). This answer may be submitted by one of the methods described below.

1. Submit by mail or facsimile to the Levy Section of the Mississippi State Tax Commission the prepared form entitle Answer to Distress Warrant for the Levy of Monies Owed to Taxpayer(s).

2. Submit by electronic mail (e-mail) to the Levy Section of the Mississippi State Tax Commission the completed Levy Response form. Prior to using this method of answering the Distress Warrant for the Levy of Monies to Taxpayer(s), the Levy Response Agreement Request must be submitted and approved.

- a. For entities who receive twenty five (25) or more levies in a delivery, a document containing levy information will be e-mailed to the entity to be completed and returned by e-mail to the Levy Section of the Mississippi State Tax Commission.

- b. For entities who receive less than twenty five (25) levies in a delivery, single answer e-mails should be submitted to the Levy Section of the Mississippi State Tax Commission.

103 Responsibility of Persons or Entity Served to Withhold and Remit Monies Levied by Distress Warrant.

It is the responsibility of the person or entity served with a Distress Warrant for the Levy of Monies Owed to Taxpayer(s) to remit to the Mississippi State Tax Commission monies levied by the Distress Warrant. The extent to which monies are levied by the Distress Warrant are governed by garnishment laws of this State and will vary depending on the type of indebtedness for which said monies are owed to the taxpayer(s) and the existence of a prior warrant or garnishment. The extent to which monies are levied and required to be remitted under a Distress Warrant is as follows:

1. Wages, Salary and Other Employment Compensation

A Distress Warrant For The Levy Of Monies Owed To Taxpayer(s) being issued by the Chairman and Commissioner of Revenue for the Mississippi State Tax Commission for the collection of state taxes is excepted from the restrictions contained in Miss. Code Ann. S85-3-4 (1) and (2), as amended, and 15 U.S.C. S1673(a), as amended, on attachment, execution, or garnishment of wages, salaries or other employment compensation. Without these restrictions, the entire disposable earnings of a taxpayer are subject to being levied. Recognizing the hardship that would result if a person's entire disposable earnings are levied for an extended period of time, it is hereby determined that in most cases the amount of wages, salaries or other employment compensation owed to a delinquent taxpayer which is to be levied

and withheld under a Distress Warrant should be less than the entire disposable earnings, and unless otherwise determined and directed as authorized under subdivision (2) below, the amount of wages, salary or other employment compensation owed to a delinquent taxpayer which is to be levied by Distress Warrant for the Levy of Monies Owed to Taxpayer(s) is hereby limited to the following:

a. Wages, Salary or Other Employment Compensation Owed during First Thirty Days after Service.

Monies owed to the defaulting taxpayer(s) for wages, salaries or other employment purposes are not bound by the Distress Warrant for the first thirty (30) days after service of the Distress Warrant, and such monies which become due to the defaulting taxpayer before or during this initial thirty (30) day period for wages, salary or other employment compensation are to be paid over to the defaulting taxpayer(s).

b. Wages, Salary or Other Employment Compensation Owed after Initial Thirty Days Period.

For all monies for indebtedness for wages, salary or other employment compensation which becomes due to the defaulting taxpayer(s) after the initial thirty (30) day period, the employer shall withhold twenty-five percent (25%) of the defaulting taxpayer(s)' disposable earnings per pay period until the Distress Warrant for the Levy of Monies Owed to Taxpayer(s) is satisfied. Disposable earnings is that part of the earnings of an individual remaining after the deduction from those earnings of any amounts required to be withheld by law.

c. Wages, Salary or Other Employment Compensation Owed for the Final Pay Period Where Employment Is Terminated.

If the defaulting taxpayer leaves the employment of the person or entity served with a Distress Warrant For The Levy Of Monies Owed To Taxpayer(s) after the initial thirty (30) day period from service of the warrant, the employer shall withhold one hundred percent (100%) of the defaulting taxpayer(s) final disposable earnings or such lesser amount that will satisfy the warrant.

2. Reservation of Authority to Increase or Decrease the Amount of Wages, Salary or Other Employment Compensation Levied by Distress Warrant

The authority to increase or decrease the amount or percentage of wages, salary and other employment compensation levied under a Distress Warrant for the Levy of Monies Owed to Taxpayer(s) from that set out in subsection (1) above is hereby reserved by the Chairman and Commissioner of Revenue. In such cases where a different amount or percentage of disposable earnings from that set out in subsection (1) above is determined to be levied and withheld under a distress warrant, the Distress Warrant for the Levy of Monies Owed to Taxpayer(s) issued to levy such wages, salary and other employment compensation in a different amount or percentage from that set out in subsection (1) above shall clearly set out the amount or percentage of disposable earnings to be levied and withheld under said Distress Warrant.

3. Indebtedness Other Than For Wages, Salary or Other Employment Compensation

Monies owed to the defaulting taxpayer(s) for indebtedness other than for wages, salary or other employment compensation are levied and bound by a Distress Warrant for the Levy of Monies Owed to Taxpayer(s) at the time that this warrant is served up to the amount of the warrant. The person or entity served is required to withhold all monies owed to the defaulting taxpayer(s) at the time of service of the warrant for such non-employment indebtedness up to the amount of the warrant. In regard to such non-employment indebtedness, a Distress Warrant for the Levy of Monies Owed to Taxpayer(s) also binds and requires to be withheld any monies for such indebtedness which becomes due to the defaulting taxpayer(s) after service of the warrant, but before the expiration of the thirty (30) day period during which the person or entity served has to answer the warrant to the extent that monies previously bound under the warrant are not sufficient to satisfy the warrant. The aggregate of all monies bound and withheld under the warrant, whether for non-employment indebtedness which was due at the time of service or which became due during the first thirty (30) days after service, shall not exceed the amount of the warrant.

4. Multiple Warrants, Garnishments or Orders of Withholding

If the person or entity served by a Distress Warrant for the Levy of Monies Owed to Taxpayer(s) is subject to multiple warrants and/or garnishments of the same defaulting taxpayer(s), the order in which such warrants and garnishments are to be withheld and satisfied is to be governed by Miss. Code Ann. S11-35-24 with the warrant being treated as if it is a garnishment. This priority does not, however, apply to an Order of Withholding under Miss. Code Ann. S93-11-111 in regard to the defaulting taxpayer(s), since, by statute, such Order of Withholding is not considered to be a garnishment. If the person or entity served with the Distress Warrant for the Levy of Monies Owed to Taxpayer(s) is at the time of service of the warrant or at some later time required to withhold from defaulting taxpayer(s)' wages under an Order of Withholding for child support, the full amount of the monies to be withheld under the warrant is still to be withheld per pay period to the extent that there are disposable earnings remaining after the monies under the Order of Withholding have been withheld. The person or entity served is to withhold first for the amount under the Order of Withholding and then for the amount under the warrant. In such cases, the amount of disposable earnings which is levied under the warrant is to be determined as with any other warrant without any deduction or adjustment for the monies paid under the Order of Withholding. The amount resulting from this computation will be the amount to be withheld and remitted under the warrant unless it is greater than the difference between the total amount of disposable earnings and the amount to be withheld under the Order of Withholding in which case this difference will be the amount to be withheld and remitted.

5. Remittance of Monies Bound under Distress Warrants for the Levy of Monies Owed to Taxpayer(s)

- a. Monies Withheld From Wages, Salary or Other Employment Compensation. Unless otherwise authorized, all monies from wages, salary or other employment compensation which are bound and levied by a Distress Warrant for the Levy of Monies Owed to Taxpayer(s) shall be remitted to the Mississippi State Tax Commission within thirty (30) days from the end of the pay period for which such monies were withheld from disposable earnings of the defaulting taxpayer(s).

b. Monies Levied for Non-Employment Indebtedness

Unless otherwise authorized, all monies for non-employment indebtedness which is bound and levied by a Distress Warrant for the Levy of Monies Owed to Taxpayer(s) shall be remitted to the Mississippi State Tax Commission within thirty (30) days from the date that the answer to the Distress Warrant for the Levy of Monies Owed to Taxpayer(s) is due.

c. Payments of Monies Levied under Distress Warrants to Reflect Taxpayer(s)' Name, Warrant Number and Control Number

All payments to the Mississippi State Tax Commission of monies levied under a Distress Warrant for the Levy of Monies Owed to Taxpayer(s) shall reflect the name of the defaulting taxpayer(s), the warrant number and the control number of the warrant.

d. Request for a Change in the Time Period for Payment

If a person or entity required to remit monies under a Distress Warrant for the Levy of Monies Owed to Taxpayer(s) desires a different time period for the remittance of monies from that set out in subsections (a) and (b) above, such person or entity can make a request to the Chairman and Commissioner of Revenue for a change in this period. Such a request shall be made in writing and shall include therein the reasons for requesting the change. Upon consideration of this request, the Chairman and Commissioner of Revenue or his designee shall advise the requesting person or entity as to whether the request is granted.

104 Personal Liability of Person or Entity Served with Distress Warrant for the Levy of Monies Owed to Taxpayer(s)

If a person or entity served with a Distress Warrant for the Levy of Monies Owed to Taxpayer(s) fails to withhold and/or remit to the Mississippi State Tax Commission the monies bound and levied by said warrant, the person or entity served shall be personally liable to the Mississippi State Tax Commission for said monies. If after expiration of the time period for the remittance of the monies bound and levied under a Distress Warrant for the Levy of Monies Owed to Taxpayer(s), the Chairman and Commissioner of Revenue finds that the person or entity served with the warrant did not remit to the Mississippi State Tax Commission all monies bound, levied and required to be remitted under the warrant, the Chairman and Commissioner of Revenue shall assess said person or entity for the taxes, penalties, interest and cost included in the warrant in the amount of the monies which were bound and levied under the warrant, but which were not remitted, and shall therein advise the person or entity served of his personal liability for said monies, demand payment of same, and further advise person or entity served that levy and collection process may be issued against him for said liability. If payment of this liability is not forthcoming, the Commissioner may issue, in the same manner as other taxes, levy and collection process against the person or entity served to collect this personal liability for monies which should have been remitted under the warrant.

105 (Reserved)

106 (Reserved)

107 (Reserved)

108 (Reserved)

109 (Reserved)

110 (Reserved)

35.1.05 updated effective January 1, 2007.

Chapter 06 Uniform State Tax Lien Registry

100 General

101 The Uniform State Tax Lien Registry, hereinafter Registry, serves as public notice of state tax debt and is the public database maintained by the Department of Revenue where state tax liens may be enrolled for finally determined tax liabilities.

102 Terms and Definitions

1. “Debtor” means a person that has an unpaid finally determined tax liability for a tax administered by the Mississippi Department of Revenue.
2. “Department” means the Mississippi Department of Revenue.
3. “Finally determined tax liability” means any state tax, fee, penalty and/or interest owed by a person to the Department of Revenue where the assessment of the liability is not subject to any further timely filed administrative or judicial review.
4. “Person” means an individual, organization or legal entity.
5. “Tax Lien” means a legal claim, by the Department of Revenue on property of a noncompliant person, to secure the payment of finally determined tax liabilities.

103 Effective January 1, 2015 a tax lien is enrolled in favor of the State and attaches upon all existing and after-acquired property of the debtor both, real and personal, tangible and intangible, which is located in any and all counties within the State of Mississippi.

104 The tax lien is valid for seven (7) years from the date of enrollment unless the tax lien is re-enrolled before the end of the seven (7) year period. The re-enrollment extends the tax lien another seven (7) years from the date of re-enrollment. A tax lien may be re-enrolled until the tax lien is paid in full. Tax liens may be enrolled at any time after the seven (7) years has lapsed. Said enrollment is a new tax lien on the pre-existing debt.

105 The priority of a state tax lien is determined from the date of its enrollment. For any re-enrolled tax liens, the date of its original enrollment will determine the priority of the tax lien so long as there was no lapse in enrollment during the seven (7) years that the tax lien was valid. A tax lien enrolled after the seven (7) years has lapsed shall lose its previous priority and the date will be the new enrollment date. This rule applies to tax liens originally enrolled with the county Circuit Clerk prior to the establishment of the Registry on January 1, 2015, as well as those tax liens enrolled after the creation of the

Registry. However, for tax liens enrolled with a county Circuit Clerk, the prior enrollment date is only the priority date for property in the county where the tax lien was enrolled. For any tax lien enrolled prior to January 1, 2015 in one or more counties, the new priority date for any property outside of the county where originally enrolled is January 1, 2015.

106 (Reserved)

200 Utilizing the Registry

201 Searches may be performed at no charge. However, there will be a charge for any bulk distribution of the Registry. The Lien Administration Bureau at the Department can provide assistance with registering to obtain this information.

202 The information obtained through bulk distribution of the Registry shall not be used for survey, marketing or solicitation purposes.

203 The Registry is accessible at www.liens.ms.gov.

204 The Registry supports a search by tax lien number or debtor name, which includes individual names or business names. Debtor name searches may be further limited by city and/or county of the Department's last known address for the debtor. However, the Department cannot and does not guarantee that the last known address is accurate.

205 The Registry shall maintain tax lien information in a form that permits such information to be printed to written form. Information to be identified includes:

1. The name of the debtor;
2. The last known address of the debtor;
3. The name and address of the Department;
4. The tax lien number assigned to the tax lien by the Department;
5. The total amount of tax, penalty, interest, and costs through the date of enrolling the tax lien;
6. The date of original enrollment of the tax lien, along with the county where originally filed if applicable; and
7. The date of reenrollment of the tax lien, if applicable.

206 (Reserved)

300 Releasing a Tax Lien

301 The Department shall file in the Registry a notice of cancellation of the tax lien when the liability is paid in full or when additional documentation is provided that resolved the liability. Tax liens cancelled due to full payment or documentation being provided will not be removed from the Registry but only noted as cancelled due to being satisfied.

- 302 Payment in full includes payment of the total amount due. The amount due may include adjustments for prior payments made toward satisfying the liability, additional interest and penalty accrued on the balance of the liability to date or adjustments resulting from filing documentation which may resolve the liability partially or in full.
- 303 A tax lien enrolled with the Registry requiring administrative correction by the Department will be cancelled within two (2) working days of determination with the tax lien being removed from the Registry. The Department will issue a letter to the debtor verifying that the tax lien was cancelled and removed from the Registry due to an administrative correction and therefore void. Because the tax lien is removed from the Registry, the debtor can access additional copies of the letter through their Taxpayer Access Point (TAP) account.
- 304 The tax lien is considered public information once enrolled and may be obtained by a credit bureau company. The Department does not govern the credit bureau company or its report. A debtor will be responsible for contacting the credit bureau company to resolve any dispute about the accuracy of any credit report.
- 305 A tax lien may be released with respect to particular property if the Department determines that the consideration paid for the release reflects the extent to which the tax lien being released attached to this particular property and that the issuance of this partial release will not jeopardize the collection of taxes, interest, penalties, or other costs due to the State. Requests for a partial release should be submitted to the Chairman of the Board of Review for the Department of Revenue. The requests should include identifying information of the property involved, including a legal description if real property, the reason for the request, and a statement of the consideration offered for the partial release. Any other information which would assist in the consideration of a partial release request should also be provided. Examples include sales documents and copies of other tax liens and encumbrances, if applicable.
- 306 A tax lien cancellation letter will be sent to the debtor using available communication methods utilized in daily operations of the Department.
- 307 (Reserved)

35.I.06 revised effective July 1, 2018

Chapter 07 Justice Court Collections Payment Program

100 General

- 101 The Justice Court Collections Payment Program was created to provide support for salaries of justice court personnel, for the purchase, operation and maintenance of software and equipment, for facility planning and improvement, and for other expenses incurred for the purpose of collecting fines and assessments within the justice court system. The Mississippi Department of Revenue (DOR) is responsible for the

administration of the program, the disbursement of monies to participating counties when appropriated by the legislature, and for ensuring that the justice court system of a participating county practices proper and effective collection procedures for the collection of fines and other assessments.

- 102 Counties must qualify in order to participate in the disbursements from the Justice Court Collections Payment Program. To qualify, the Board of Supervisors of a county must contract with a private attorney or private collection agent or agency to collect delinquent fees, fines and other assessments as provided by Miss. Code Ann. Section 19-3-41(2). Using a county employee for these services does not qualify the county to receive the distribution. The county must submit to the DOR the following information in order to be considered as participating:
1. The name of the county;
 2. The name and address of the person or department that will be the contact for this program; and
 3. A copy of the contract made with the collection entity including the services being performed and the time frame governed by the contract.
- 103 The DOR will issue a letter to the county either approving or denying participation in the disbursements from the Justice Court Collections Payment Program. The participating county becomes eligible for disbursements on the effective date of the contract. Disbursements begin the quarter following qualification of participation and are retroactive to the effective date of the contract, as long as the effective date is within the same fiscal year (July 1 - June 30). The county must notify the DOR in writing upon early termination or discontinuance of the contract. In order to maintain participation in the Justice Court Collections Payment Program a valid contract must be provided annually to the DOR by the anniversary date indicated in the approval of participation letter.
- 104 An assessment is collected by the justice court system from each person upon whom the court imposes a fine or other penalty for any misdemeanor specified as “other misdemeanors” in Miss. Code Ann. Section 99-19-73(6). The assessments are then remitted to the Department of Finance and Administration (DFA) in the normal monthly settlements. The DFA accounts for and deposits the money into the General Fund. By the end of the month following the end of each calendar quarter, the DOR will calculate the total amount that should be distributed from the Justice Court Collections Payment Program to each participating county using DFA accounting reports. The DOR will then send the calculated distribution amount to each participating county.
- 105 The maximum amount that a county may receive from the program is equal to the amount of deposits made into the General Fund by that county, from “other misdemeanor” fines or penalties.
- 106 Per Miss. Code Ann. Section 9-11-35, disbursements of money from the program may only be used to provide support for the following:
1. Salaries for justice court personnel;

2. Purchase, operation and maintenance of software and equipment;
3. Facility planning and improvement;
4. Other expenses incurred for the purpose of collecting fines and assessments within the justice court system; and
5. Defraying costs associated with collection actions under Miss. Code Ann. Section 19-3-41(4) for the collection of delinquent fines and other assessments.

107 (Reserved)

200 Collection Procedures for a Participating County

201 Payment of fines and other assessments within the justice court system are due at the time assessed. If the individual cannot pay at that time, a record of the assessment should be made. The record should contain the date of the assessment, the reason for the assessment, the amount of the assessment, any amount paid against the assessment, and the name, address and phone number of the person assessed. After thirty (30) days, if payment has not been received, a letter requesting payment should be mailed to the last known address. If payment is not received after an additional thirty (30) days, a phone call should be made. These fines and other assessments are determined to be delinquent after ninety (90) days and may be turned over to a private attorney or private collection agency or agent.

202 There shall be due to the county from any person whose delinquent payment is collected pursuant to a contract executed under Miss. Code Ann. Section 19-3-41 an amount, in addition to the delinquent payment, not to exceed twenty-five percent (25%) of the delinquent payment for collections made within this state and not to exceed fifty percent (50%) of the delinquent payment for collections made outside of this state.

203 If a county uses its own employees to collect any type of delinquent payment owed to the county, then from and after July 1, 1999, the county may charge an additional fee for collection of the delinquent payment provided the payment has been delinquent for ninety (90) days. The collection fee may not exceed twenty-five percent (25%) of the delinquent payment if the collection is made within this state and may not exceed fifty percent (50%) of the delinquent payment if the collection is made outside this state. In conducting collection of delinquent payments, the county may utilize credit cards or electronic fund transfers. The county may pay any service fees for the use of such methods of collection from the collection fee, but not from the delinquent payment.

204 The additional fees referred to in Sections 202 and 203 above are not deposited into the General Fund.

205 (Reserved)

35.I.07 revised effective July 1, 2018

Chapter 08 Municipal Court Collections Payment Program

100 General

101 The Municipal Court Collections Payment Program was created to provide support for salaries of municipal court personnel, for the purchase, operation and maintenance of software and equipment, for facility planning and improvement, and for other expenses incurred for the purpose of collecting fines and assessments within the municipal court system. The Mississippi Department of Revenue (DOR) is responsible for the administration of the program, the disbursement of monies to participating cities when appropriated by the legislature, and for ensuring that the municipal court system of a participating municipality practices proper and effective collection procedures for the collection of fines and other assessments.

102 Municipalities must qualify in order to participate in the disbursements from the Municipal Court Collections Payment Program. To qualify, the governing authority of a municipality must contract with a private attorney or private collection agent or agency to collect delinquent fees, fines and other assessments as provided by Miss. Code Ann. Section 21-17-1(6). Using a municipal employee for these services does not qualify the municipality to receive the distribution. The municipality must submit to the DOR the following information in order to be considered as participating:

1. The name of the municipality;
2. The name and address of the person or department that will be the contact for this program; and
3. A copy of the contract made with the collection entity including the services being performed and the time frame governed by the contract.

103 The DOR will issue a letter to the municipality either approving or denying participation in the disbursements from the Municipal Court Collections Payment Program. The participating municipality becomes eligible for disbursements on the effective date of the contract. Disbursements begin the quarter following qualification of participation and are retroactive to the effective date of the contract, as long as the effective date is within the same fiscal year (July 1 - June 30). The municipality must notify the DOR in writing upon early termination or discontinuance of the contract. In order to maintain participation in the Municipal Court Collections Payment Program a valid contract must be provided annually to the DOR by the anniversary date indicated in the approval of participation letter.

104 An assessment is collected by the municipal court system from each person upon whom the court imposes a fine or other penalty for any misdemeanor specified as “other misdemeanors” in Miss. Code Ann. Section 99-19-73(6). The assessments are then remitted to the Department of Finance and Administration (DFA) in the normal monthly settlements. The DFA accounts for and deposits the money into the General Fund. By the end of the month following the end of each calendar quarter, the DOR will calculate the total amount that should be distributed from the Municipal Court Collections Payment Program to each participating municipality using DFA accounting reports. The DOR will then send the calculated distribution amount to each participating municipality.

- 105 The maximum amount that a county may receive from the program is equal to the amount of deposits made into the General Fund by that county from “other misdemeanor” fines or penalties.
- 106 Per Miss. Code Ann. Section 21-23-23, disbursements of money from the program may only be used to provide support for the following:
1. Salaries for municipal court personnel;
 2. Purchase, operation and maintenance of software and equipment;
 3. Facility planning and improvement;
 4. Other expenses incurred for the purpose of collecting fines and assessments within the municipal court system; and
 5. Defraying costs associated with collections actions when a municipality uses its own employees to collect delinquent fines and other assessments owed.
- 107 (Reserved)
- 200 Collection Procedures for a Participating Municipality
- 201 Payment of fines and other assessments within the municipal court system are due at the time assessed. If the individual cannot pay at that time, a record of the assessment should be made. The record should contain the date of the assessment, the reason for the assessment, the amount of the assessment, any amount paid against the assessment, and the name, address and phone number of the person assessed. After thirty (30) days, if payment has not been received, a letter requesting payment should be mailed to the last known address. If payment is not received after an additional thirty (30) days, a phone call should be made. These fines and other assessments are determined to be delinquent after ninety (90) days and may be turned over to a private attorney or private collection agency or agent.
- 202 There shall be due to the municipality from any person whose delinquent payment is collected under a contract executed as provided in Miss. Code Ann. Section 21-17-1(6) an amount, in addition to the delinquent payment, not to exceed twenty-five percent (25%) of the delinquent payment for collections made within this state, and not to exceed fifty percent (50%) of the delinquent payment for collections made outside of this state.
- 203 If a municipality uses its own employees to collect any type of delinquent payment owed to the municipality, then from and after July 1, 2000, the municipality may charge an additional fee for collection of the delinquent payment provided the payment has been delinquent for ninety (90) days. The collection fee may not exceed twenty-five percent (25%) of the delinquent payment if the collection is made within this state and may not exceed fifty percent (50%) of the delinquent payment if the collection is made outside this state. In conducting collection of delinquent payments, the municipality may utilize credit cards or electronic fund transfers. The municipality may pay any service fees for the use of such methods of collection from the collection fee, but not from the delinquent payment.

204 The additional fees referred to in Sections 202 and 203 above are not deposited into the General Fund.

205 (Reserved)

35.I.08 revised effective July 1, 2018