

## Title 35 Mississippi State Tax Commission

### 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. "IRP Registration" means the registration of a vehicle under the provisions of the International Registration Plan.
9. "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, tag or title, or to the mailing of a denial of a permit, 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. 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 his appeal. The addressee is presumed to have received any document or item mailed to his 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.
10. "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, tag holder or title interest holder shall constitute mailing and notice to the taxpayer, permittee, tag holder or title interest holder.
11. "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 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.
12. "Permittee" means a person holding a permit, applying for a permit or renewing a permit.

13. "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, tag holder, or title interest holder, or in the context of a person requesting guidance, oral advice, a letter ruling or a declaratory opinion.
14. "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.
15. "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.
16. "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.
17. "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.
18. "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 only to the extent that the Agency determines, in accordance with Miss. Code Ann. Section 27-19-48 that an applied for personalized license tag is obscene, slanderous, insulting or vulgar in ordinary usage, or that a personalized license tag has been issued in error and demand has been made for the surrender of the tag or an order has been issued for the tag to be seized. "Tag" does not include other types of license tags or plates issued by county tax collectors.
19. "Tag holder" means the person in whose name a tag is registered or the person applying for a tag.
20. "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.
21. "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.

22. "Taxpayer" means any person or fiduciary liable for or having paid any tax to the Agency.
23. "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 Agency Organization

### 104.01 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.

### 104.02 Agency Organizational Structure

1. **Commissioner of Revenue.** The Department of Revenue is headed by the Commissioner of Revenue, who is appointed by the Governor with the advice and consent of the Senate. The Commissioner of Revenue is the executive officer of the Department, and has the power and authority to perform all duties and powers prescribed by law, including the power and authority to enforce all rules and regulations promulgated by the Commissioner or the Department.
  2. **Associate Commissioners.** The Commissioner of Revenue is assisted by Associate Commissioners and other senior managers who preside over the various offices, bureaus, divisions and other functional areas of the Department including:
    - a. Agency Support and Operations
      - i. Purchasing
      - ii. Accounting
      - iii. Administrative Services
      - iv. Print Shop
      - v. Office of Information Technology
    - b. Business Taxes and Alcoholic Beverage Control (ABC)
      - i. ABC Warehouse
      - ii. ABC Administration
      - iii. Sales and Excise Taxes
      - iv. Petroleum Tax
      - v. Audit Administration
      - vi. Commercial Vehicle Division
    - c. Executive and Enforcement Services
      - i. Human Resources
      - ii. ABC Enforcement
      - iii. Tax Enforcement

- iv. Criminal Investigations
- v. Communications and Governmental Affairs
- d. Income and Property Tax
  - i. Individual Income Tax
  - ii. Corporate Income and Franchise Taxes
  - iii. Withholding Tax
  - iv. Property Tax
  - v. Customer Service and Registration
  - vi. Foreign Audit
  - vii. Miscellaneous Taxes
  - viii. Motor Vehicle Licensing
  - ix. Motor Vehicle Titles

## 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 (7<sup>th</sup>) 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 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 hereinbelow, 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. An opportunity for public participation will be provided during a public comment period. 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 may hold a hearing 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;
  - c. Denial of waiver of tag penalty;
  - d. Suspension, surrender, seizure or revocation of permit, tag, or title;
  - e. Denial of application for a permit, tag, or title.
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;
  - h. Denials of certifications of tax incentives; and
  - i. Denial of rebates.
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 of the date of the action. 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 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 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 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 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 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 chair 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 Mississippi 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.

109 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](http://www.dor.ms.gov) or obtained by calling (601) 923-7000.

110 (Reserved)

111 (Reserved)

112 (Reserved)

## Chapter 02 Electronic Funds Transfer

### 100 Scope of Rules

This chapter sets forth the rule to be used by the Mississippi State Tax Commission in the administration of Mississippi Code 27-3-81, authorizing the Mississippi State Tax Commission to require certain taxpayers to remit taxes by electronic transfer of funds so that the funds will be immediately available to the State Treasury on the due date of payment. If there is a conflict between this rule and any other rules applicable to taxes subject to electronic funds transfer, this rule shall govern.

### 101 Definitions

The terms and phrases used in this rule shall have the meanings prescribed in this section, unless a different meaning is clearly indicated by the context in which the term or phrase is used.

1. ACH—Automated Clearing House
2. ACH Credit -- The electronic funds transfer payment method where transactions are initiated and generated by the taxpayer, cleared through the ACH system for deposit to the State Treasury.
3. ACH Debit -- The electronic funds transfer payment method where transactions are generated by the State Tax Commission upon the taxpayer's instruction and cleared through the ACH system for deposit to the State Treasury.
4. ACH Trace Number -- The unique number assigned to an electronic payment transaction by the financial institution originating the transaction.
5. Addenda Record -- The information required by the Mississippi State Tax Commission in an ACH Credit transfer or Fedwire transfer, in approved electronic format.
6. Access Code -- A confidential code assigned to each taxpayer which uniquely identifies the payor and allows the payor to communicate payment information to the Data Collection Center. The taxpayer may be given a separate access code for each tax type.
7. 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.
8. Call-in Day -- The day on which a taxpayer communicates payment information to the Data Collection Center.
9. Call-in Period -- The specified time interval in each call-in day during which EFT payment information received by the Data Collection Center is processed for transactions occurring on the next business day. Payment information must be communicated to the Data Collection Center prior to 3:30 p.m. (Central Time) on the call-in day to clear the ACH for deposit in the State Treasury on the next business day.
10. Confidential Taxpayer Identification Number -- See definition for access code
11. Data Collection Center -- The third party vendor who collects and processes EFT payment information from taxpayers, when using the ACH Debit method.
12. Due Date -- The date on or before which a payment is required to be made by a taxpayer under a revenue law of this state.
13. Effective Date of Implementation -- The date which the taxpayer is approved by the State Tax commission to pay a tax type using EFT.

14. EFT - Electronic Funds Transfer
15. 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.
16. Fedwire -- See definition for wire transfer.
17. Mississippi Electronic Funds Transfer System -- See definition of Data Collection Center.
18. Payment Information -- The data which the Mississippi State Tax Commission requires of a taxpayer making an EFT payment.
19. Payor -- The taxpayer.
20. Reference Number -- The unique number assigned to an electronic payment transaction by the financial institution originating the transaction.
21. State Tax Commission -- The Mississippi State Tax Commission.
22. State Treasury -- The Treasury of the State of Mississippi.
23. State's Fiscal Year -- July 1 through June 30.
24. Tax Commission -- The Mississippi State Tax Commission.
25. Tax Type -- A tax, fee, license or other obligation which is subject to the EFT payment requirements, each of which shall be considered a separate category of payment. This will include all taxes, fees, licenses or other obligations which are administered by the Mississippi Code of 1972.
26. Taxpayer -- Any person required to remit an amount to the Mississippi State Tax Commission 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.
27. Treasury -- The Treasury of the State of Mississippi.
28. Verification Code -- Code calculated from the payment amount used to ensure that the payment is communicated correctly.
29. Wire Transfer -- An instantaneous electronic funds generated by the taxpayer to the State Treasury.

102 General Requirements

1. Under the authority granted to the Mississippi State Tax Commission under Mississippi Code 27-3-81, the Mississippi State Tax Commission may require consistent with the cash management policies of the State Treasurer, that any person owing \$20,000.00 or more in connection with any return, report, or other document to be filed with the commission, can be required to remit any such tax liability by electronic funds transfer.
2. Effective January 1, 1994, the Mississippi State Tax Commission will implement an EFT program which will require certain taxpayers subject to the following taxes to remit tax payments by electronic funds transfer:
  - a. Gaming
  - b. Insurance Premium
  - c. Beer Excise
  - d. Timber Severance

- e. Tobacco Wholesale
  - f. Oil Severance
  - g. Gas Severance
3. The Mississippi State Tax Commission will periodically make a determination of additional tax types to be added to the EFT program. Threshold amounts will be established at that time to determine if payments made by a taxpayer subject the taxpayer to the EFT tax payment program.
  4. The Mississippi State Tax Commission will make an annual determination of those taxpayers who will be required to pay a tax electronically based on prior year payment thresholds. The determination as to which taxpayers shall be subject to the remittance provisions of this rule is made by the Mississippi State Tax Commission, on a tax type by tax type basis, and is based on annual payments made to the State Tax Commission during a calendar year.
  5. All taxpayers selected for the EFT program shall participate for a minimum of one year. Persons selected on the basis of prior year tax payments will be contacted by the Mississippi State Tax Commission at their last address of record. Once selected for the EFT requirement, the taxpayer must electronically transmit all payments for that tax type as provided in this rule. The Mississippi State Tax Commission will also review payments on an interim basis to identify additional taxpayers who will be required to make payments in accordance with the procedures stated in this rule.
  6. The State Tax Commission will provide the selected taxpayers with forms necessary for registering to make payments for the taxes through EFT. The State Tax Commission will provide the taxpayers with instructions and procedures for paying the taxes through EFT.
  7. The State Tax Commission will provide technical assistance and guidance to the taxpayers concerning the payment of taxes through EFT. An EFT hotline will be available to the taxpayers from 8:00 a.m. through 5:00 p.m. (Central Standard Time) each business day, with the exception of state holidays.

103 Selection of Taxpayers

1. On an annual basis, the State Tax Commission will review the most recent twelve-month period of payment history for a taxpayer, on a tax type by tax type basis, to determine if the payment history requires the taxpayer to make payments for the tax type using EFT. If the taxpayer was not previously required to make payments for the tax type using EFT, a determination will be made as to whether the taxpayer should be required to make payments for the tax type using EFT. If the taxpayer was previously required to make payments for the tax type using EFT, a determination will be made as to whether the taxpayer should continue to be required to make payments for the tax type using EFT.
2. On an interim basis, the State Tax Commission will review payment transactions, on a tax type by tax type basis, to identify those transactions which equal or exceed the threshold amount. Taxpayers who were not previously selected as being required to make payments for a tax type using EFT and who make payments in amounts equal to or in excess of the threshold amount will be required to use EFT for the tax type.

104 Notification of Taxpayers

1. Prior to the date of the first required payment, the State Tax Commission will mail a written notice to all taxpayers selected in the annual review of transactions informing them that they are required to make payments for a tax type using EFT. The notice will identify the tax types to be paid using EFT; will provide instructions pertaining to the payment methods available to the taxpayer; and will provide the taxpayer with the form "Registration Application For Electronic Funds Transfer."
2. The taxpayer will be required to return a properly and fully completed registration application to the State Tax Commission for each tax type the taxpayer was selected to pay using EFT or will provide a written statement explaining the reason the taxpayer should be exempted from the requirement to make payments for a tax type using EFT. The taxpayer will use the registration application to make an election as to which payment method the taxpayer will use. A taxpayer who elects to use the ACH Credit payment method in lieu of the ACH Debit payment method must file a written request with the registration application to use the ACH Credit method. The request must state the reason for requesting the ACH Credit payment method.
3. If the State Tax Commission receives no response from the taxpayer within ten (10) days, the State Tax Commission will provide the taxpayer with a second notice, utilizing certified mail. No response on the part of the taxpayer will subject the taxpayer to all applicable penalties, interest and loss of applicable discount, upon the taxpayer making a payment equal to or in excess of the threshold amount for that period.
4. Upon substantiation by the taxpayer to the satisfaction of the State Tax Commission that the taxpayer will not be making payments for a tax type equal to or in excess of the threshold amount for the period, the department shall waive the requirement to make payments for the tax type by EFT. If the taxpayer subsequently makes a non-EFT payment, in an amount equal to or in excess of the threshold amount for the period the taxpayer was previously selected to make payments using EFT, the taxpayer may be subject to all applicable penalties, interest, and loss of discounts.

#### 105 Registration of Taxpayers

1. The taxpayer shall properly and fully complete the form "Registration Application For Electronic Funds Transfer", provided by the State Tax Commission, and return the registration application to the State Tax Commission by the date specified by the State Tax Commission. Pertinent taxpayer information provided by the application will be recorded and provided to the Data Collection Center. The information which may be required to be provided includes:
  - a. Taxpayer name
  - b. Taxpayer address
  - c. Tax type
  - d. Tax code / account number
  - e. Contact person - name and title
  - f. Contact person – address
  - g. Contact person - telephone number
  - h. Bank name
  - i. Bank address
  - j. Bank transit / routing number
  - k. Bank account number

- l. Signature of person authorized to sign checks
  - m. Written verification from the taxpayer's bank confirming the bank routing and transit number and the bank account number of taxpayer
  - n. Other information as deemed necessary by the State Tax Commission to administer Mississippi Code 27-3-81
2. Upon receipt of taxpayer information from the Mississippi State Tax Commission, the Data Collection Center shall assign a confidential access code to the taxpayer which will be used by the taxpayer to communicate payment information to the Data Collection Center. The access code shall be provided to the taxpayer prior to the date the first required payment is due under the EFT program.
  3. A taxpayer must provide at least a 30 day written notice of any change of information required by submitting a revised "Registration Application For Electronic Funds Transfer" to the State Tax Commission.

106 Payment Alternatives

1. The ACH Debit payment method will be the primary method used by taxpayers to make payments for a tax type using EFT. The ACH Credit method is a payment method available only to taxpayers with permission of the State Tax Commission. Fedwire is not an EFT payment method alternative available to taxpayers. Fedwire is used only on an emergency basis with prior authorization by the Mississippi State Tax Commission.
2. The State Tax Commission will grant taxpayers permission to use the ACH Credit method on a case by case basis. A taxpayer who requests permission to use the ACH Credit method must submit a written request to the State Tax Commission, which demonstrates the existence of a valid business operational reason for using the ACH Credit payment method in lieu of the ACH Debit payment method. A taxpayer who is already using the ACH Credit method to pay vendors, and is already successfully using the ACH Credit method to pay taxes for other jurisdictions is deemed to have a valid business reason for using the ACH Credit method to make payments for Mississippi taxes.
3. The Tax Commission reserves the right to revoke the ACH Credit method payment privilege of any taxpayer for the following reasons:
  - a. Failure to consistently transmit error-free payments
  - b. Substantial variation from the requirements and specifications of these rules
  - c. Failure to make timely EFT payments or to provide timely payment information
  - d. Failure to provide the addenda record, required by these rules, with the EFT payment

107 Procedures for Payment ACH Debit

1. Taxpayers who elect to use the ACH Debit payment method in making EFT payments for tax types shall use the following procedures in communicating payment information to the Data Collection Center.
2. Prior to contacting the Data Collection Center the taxpayer will record the following information to transmit to the Data Collection Center:
  - a. Tax payment amount
  - b. Tax period covered
  - c. Tax type

- d. The taxpayer will compute the verification code. See definition for verification code.
3. The taxpayer must report payment information to the Data Collection Center no later than 3:30 p.m. (Central Time) on the business day before the due date of the payment. The Data collection Center must be called, using the specified toll-free number, during the call-in period specified in the detailed instructions provided to taxpayers. The Tax Commission will bear the costs of processing EFT payments through the Data Collection Center. Communication by the taxpayer during the call-in period is mandatory to assure the timely posting of the taxpayer's payment on the following business day.
4. The Data Collection Center will receive the information provided by the taxpayer and will compute the verification code. If the exchange of information is correct, the verification code computed by the Data collection Center will be identical to the verification code computed by the taxpayer.
5. If the verification code computed by the Data Collection Center is identical to the verification code computed by the taxpayer, the Data Collection Center will confirm this to the taxpayer. The taxpayer will record the date and time of the call as an audit trail of the payment.
6. If the verification code is not identical, the Data Collection Center will ask the taxpayer to provide the information again, until it can be verified that the exchange of information is correct.
7. Successful completion of the call to the Data Collection Center will fulfill the taxpayer's obligation for initiating an ACH Debit transaction.
8. The payment of taxes through EFT does not relieve the taxpayer from filing the appropriate tax returns or applicable information returns required by the Tax Commission. Taxpayers must complete any EFT payment indicators on the form. If an EFT payment indicator is not available, the taxpayers must boldly and legibly indicate on the face of the return that payment was made using EFT. The required returns are filed in the normal manner.

108 Procedures for Payment ACH Credit

1. The State Tax Commission will allow certain taxpayers to use the ACH Credit payment method. It is the intent of the Tax Commission to examine each taxpayer's compliance with the requirements of this rule. If a taxpayer has elected the ACH Credit payment method but repeatedly fails to correctly complete the payment transactions in accordance with the procedures stated in these rules, the State Tax Commission may in its discretion require the taxpayer to make future payments by the ACH Debit payment method.
2. To assure the timely receipt of payment for a tax type, 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 State Treasury on or before the appropriate due date of payment.
3. All ACH Credit transactions must utilize the NACHA CCD+ entry with a TXP Banking Convention addenda record. The TXP Banking Convention addenda record requires the following information:
  - a. Taxpayer's identification number
  - b. Tax type code

- c. Tax period end date
  - d. Payment type
  - e. Amount of payment
4. If the taxpayer repeatedly fails to provide the State Tax commission with the required addenda record which conforms to the requirements of the State Tax Commission, the taxpayer may be required to use the ACH Debit method.
  5. A taxpayer who elects to use the ACH Credit payment method will first determine the total amount of tax due with respect to the tax type for which the payment is being made. At a time arranged between the taxpayer and taxpayer's financial institution, the taxpayer will provide the taxpayer's financial institution with the information necessary and TXP Banking Convention. A timely ACH Credit transaction will be initiated and posted as immediately available funds to the State of Mississippi's bank account on or before the due date of the payment.
  6. Taxpayers electing to use the ACH Credit payment method are responsible for coordinating with their financial institutions to ensure that ACH Credit payments are timely initiated. The impact of prescribed ACH time frames and nightly cycles as well as the impact of weekends and holidays must be considered.
  7. Taxpayers must file the required returns. Any EFT payment indicators on the form must be completed. If an EFT indicator is not available, taxpayers must boldly and legibly print on the face of the return that payment was made using EFT. Tax returns for which payment was made using EFT must be mailed to the following address:
    - Mississippi State Tax Commission
    - EFT Unit
    - P. O. 960
    - Jackson, MS 39205

109 Payment Procedures 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 State Tax Commission's permission, on an exception basis, to transmit payments of tax to the State Treasurer's account via wire transfer. Prior to initiating the transmission, the taxpayer must contact the State Tax Commission. The taxpayer must present the emergency situation which prevents timely compliance under the ACH Debit method and request verbal approval to wire transfer the tax payments in question to the State Treasury.
2. Taxpayers who are granted verbal 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. All wire transfers must be accompanied by an addenda record, in the format specified by the State Tax Commission, which may include the following information:
  - a. Taxpayer's account number
  - b. Tax type
  - c. Document type
  - d. Amount of payment
  - e. Tax period

4. Wire transfers which are not received by the State Treasury on or before the due date of the transmitted payments of tax will constitute late payment and the applicable late filing penalties, interest, and loss of collection allowance shall apply.
5. As originator of this ACH transaction, the cost of each Fedwire will be paid by the taxpayer.

110 Requirements for Filing Returns

1. The requirement to use EFT to make tax payments does not change any current filing requirements for the tax returns. If the EFT payment is not timely made or the tax return required is not filed by the due date, the provisions for late payment penalties, late filing penalties, interest, and loss of applicable discount shall apply under the provisions of the appropriate revenue laws of the Mississippi Code of 1972, unless otherwise provided in this rule.
2. Most return forms will have an EFT payment indicator for the taxpayer to complete. In the absence of an EFT payment indicator, taxpayers must boldly and legibly print on the face of the return that payment was made using EFT.
3. The filed return and EFT payment shall be coordinated by the State Tax Commission.
4. Tax returns for which payment was made using EFT must be mailed to the following address:

Mississippi State Tax Commission  
EFT Unit  
P. O. Box 960  
Jackson, MS 39205

111 Penalties for Noncompliance

1. The provisions of the Mississippi Code of 1972 shall govern the administration of any tax, interest, or penalty assessed due to late EFT payments.
2. No specific additional penalty provisions are provided concerning compliance with the EFT tax payment requirement. Rather, the general provisions for all taxpayers apply. To avoid the imposition of penalties, timely filing of the tax return along with timely payment in accordance with the provisions of the Mississippi Code of 1972 and the provisions of this rule is required.
3. Failure of a taxpayer to respond to the notification from the State Tax Commission concerning the required use of EFT to make payments for a tax type or failure to timely or properly make EFT payments in accordance with this rule shall subject the taxpayer to applicable penalty, interest, and loss of discount, as provided by the Mississippi Code of 1972 for delinquent or deficient tax payments. If payment is made for a tax type for which a taxpayer was selected to make payments using EFT, and the payment is made in a method which is not in accordance with the procedures stated in this rule, a delinquent payment penalty for that tax type as specified in the Mississippi Code of 1972 may be assessed. In addition to any penalty which may be imposed, interest shall be added to the amount of tax due from the due date of the tax payment to the date that the funds become available to the State Treasury. It is presumed, in the absence of evidence to the contrary, that said funds will be available on the third business day following receipt of payment.

4. Penalties may be waived when the circumstance causing delinquency are beyond the control of the taxpayer. Errors made by the Data Collection Center, the State Treasury or the State Tax Commission which result in a late payment by the taxpayer shall not subject the taxpayer to late payment penalties, interest, or loss of applicable discount for the late payment.

5. When a taxpayer uses the ACH Debit payment method, the State of Mississippi's bank is the originating bank and is responsible for the accuracy of the transmission. If the taxpayer timely initiated the ACH Debit transaction, received a reference number, and can show adequate funds were available in the bank account, no penalties shall apply with respect to the payment if the transaction was not properly completed.

6. When a taxpayer uses the ACH Credit payment method, the taxpayer's bank is the originating bank and the taxpayer is primarily responsible for the accuracy and proper completion of the transaction. The taxpayer must show timely initiation for the CCD+ entry and the required TXP Banking Convention addenda record, that there were sufficient funds in the account and that the financial institution properly completed the transaction in a timely manner in order to prove timely compliance. If the taxpayer can make this showing, then no penalties shall apply with respect to the payment if the transaction was not properly completed.

7. A taxpayer who is required to make EFT payments and who is unable to make a timely payment because of system failures within the Automated Clearing House System, which are beyond the taxpayer's control, shall not be subject to penalty or interest for late payment or loss of applicable discount.

#### 112 Voluntary Use of EFT to Pay Taxes

1. Those taxpayers who are not required to make EFT payments for any tax type may request permission from the State Tax Commission to make EFT payments for a tax type that is being implemented by the Mississippi State Tax Commission.

2. Taxpayers making a voluntary election to make EFT payments for a tax type are subject to the provisions of this rule as are those taxpayers who are required to make EFT payments.

3. Written applications for voluntary participation in the EFT program must be filed with the Mississippi State Tax Commission at least 30 days prior to the due date of the payment(s) in question by filing form "Registration Application For Electronic Funds Transfer." Once accepted for voluntary participation in the EFT program, taxpayer must remain in the program for one year. Taxpayers may terminate voluntary participation, after one year, by filing a written request for termination with the Mississippi State Tax Commission at least 30 days prior to the due date of the last EFT payment.

4. Requests for voluntary inclusion and termination notices must be directed to:

Mississippi State Tax Commission  
EFT Unit  
P. O. Box 960  
Jackson, MS 39205

#### 113 Grace Periods during Implementation

During the early stages of implementing this Act, not to exceed three months from the effective dates of implementation, the State Tax Commission may, at its discretion,

extend a grace period of no more than two business days for taxpayers to resolve unexpected problems which may arise in financial institution, Federal Reserve facilities, or the Automated Clearing House system, resulting in the taxpayers making late payments. To qualify for a grace period, the taxpayer must demonstrate that a good faith attempt was made to comply with the provisions of these rules, that due diligence was exercised to initiate the payment timely and correctly, and that sufficient funds were available in the taxpayer's bank account, or that circumstances beyond the taxpayer's reasonable control prevented compliance by the required date.

114 Change in Taxpayer Information

A taxpayer must provide at least 30 days written notice of any change of information required by submitting a revised "Registration Application For Electronic Funds Transfer" to:

Mississippi State Tax Commission  
EFT Unit  
P. O. Box 960  
Jackson, MS 39205

115 Legal Holidays

1. Taxpayers who are required to remit tax payments through EFT must initiate the transfer so that the amount due is deposited as collected funds to the State Treasurer's account on or before the due date under the appropriate revenue law. If a tax due date falls on a Saturday, a Sunday, a legal holiday as defined in the Mississippi Code of 1972, or a legal holiday of the jurisdiction in which the taxpayer's financial institution is located, the deposit by electronic funds transfer is required on or before the preceding banking day. If the day on which the taxpayer is required to initiate the ACH Debit transfer falls on a Saturday, Sunday, or a business or banking holiday, the taxpayer must initiate the transaction on the preceding business day.

2. a. The Mississippi State Tax Commission is closed for the following holidays:

- i. New Year's Day January 1
- ii. Martin Luther King's Birthday 3rd Monday in January
- iii. President's Day 3rd Monday in February
- iv. Confederate Memorial Day Last Monday in April
- v. National Memorial Day Last Monday in May
- vi. Independence Day July 4
- vii. Labor Day 1st Monday in September
- viii. Veterans' Day November 11
- ix. Thanksgiving Day 4th Thursday in November
- x. Christmas December 25

b. Provided, however, that in the event any holiday shall fall on Saturday or Sunday, then the preceding Friday or the following Monday shall be a legal holiday. Additional days at Thanksgiving and Christmas are often declared holiday by proclamation by the Governor of Mississippi.

116 (Reserved)

117 (Reserved)

118 (Reserved)

119 (Reserved)

120 (Reserved)

### **Chapter 03 Penalties Related to Unofficial Tax Forms or Misuse of Tax Forms**

100 The Mississippi State Tax Commission, (hereinafter referred to as "State Tax Commission"), is in the process of implementing a new imaging system. Only tax forms printed by and issued by the State Tax Commission can be read by the new system. All taxpayers must use the proper official form. Any reproduction of an official form must be printed with "dropout ink" and approved by the State Tax Commission.

100.01 **Exception:** The taxpayer may file the returns printed from a provider tax preparation software package if the forms printed from the packager have been previously approved by the State Tax Commission. If the forms printed from the package have been approved, then the provider should have a letter from the State Tax Commission approving these forms. These forms should be printed by a laser printer or laser quality printer.

101 Taxpayers

It is the taxpayer's responsibility:

1. To file their return on the original form, or
2. To require their tax preparer to either use the official form or use a tax preparation software package that generates the forms(s) approved by the State Tax Commission, or
3. To file their return on an approved provider form printed in dropout ink, or
4. To file their return using a tax preparation software package that generates the form(s) approved by the State Tax Commission.

101.01 In all cases above, the taxpayer must file the original return with the original signature. Photocopies are not acceptable.

102 Tax Preparers

It is the tax preparer's responsibility:

1. To prepare each taxpayer's return on the original form, or
2. To use an approved provider form printed in dropout ink, or
3. To use a tax preparation software package that generates the form(s) approved by the State Tax Commission.

102.01 In all cases above, the tax preparer must file the original return with an original signature. Photocopies are not acceptable.

103 Tax Preparation Software Providers Specific Substitute Forms Guidelines are available for forms that will be generated by tax preparation software or printed forms with dropout ink. The guidelines contain information such as typeset, bar code placement, positioning of the tax data, and other similar information. These guidelines have been furnished to all tax preparation software providers with their package of the official forms. Copies of the *Mississippi Guidelines for Providers of Substitute Forms* are available on request.

103.01 It is the provider's responsibility:

1. To comply with the Substitute Forms Guidelines, and
2. To obtain written approval from the State Tax Commission 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 for by the State Tax Commission.

103.02 NOTE: A penalty of Twenty-five Dollars (US\$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.

104 Photocopies

Photocopies will only be accepted in limited circumstances as follows:

1. If a taxpayer must file a duplicate or 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. For income tax returns (individual returns, resident and nonresident, partnership returns, fiduciary returns, corporate returns and estate tax returns), the primary form on which the taxpayer endorses their return must comply with Section B of this Rule. Photocopies (including photocopies of some federal forms) may be used as attachments only if specifically allowed in the instructions that accompany each form. For example, the State Tax Commission may accept a photocopy of the Federal Schedule A of Itemized Deductions of the Federal Balance Sheet attached to the corporate return as an attachment.

105 (Reserved)

106 (Reserved)

107 (Reserved)

108 (Reserved)

#### **Chapter 04 Electronic Filing and Electronic Payments**

100 Section 27-3-83, Mississippi Code of 1972 provides the State Tax Commission may specify by rule or regulation the manner and method in which tax returns, and other tax

documents and information may be filed with the commission. Such filings may be accomplished by submitting the forms or documents manually or by submitting them electronically.

- 101 Section 27-3-81, Mississippi Code of 1972, provides the State Tax Commission, consistent with the cash management policies of the State Treasurer, may require any person owing more than \$20,000.00 in connection with any return, report or other document filed with the commission to remit any such tax liability by any such means established by the Tax Commission, with the approval of the State Treasurer, which ensures the availability of such funds to the state on the date of payment. The purpose of this rule is to:
1. Set forth the Tax Commission's requirements for the electronic filing of tax returns and related documents.
  2. Require certain taxpayers and/or their agents to file tax returns electronically with the Tax Commission.
  3. Provide that persons filing returns electronically with the Tax Commission make their payments of taxes by electronic means.
- 102 On the effective date of this rule, the State Tax Commission, will begin implementation of an electronic filing program for tax returns and related documents and will require certain taxpayers and/or their agents to submit their tax returns and related documents electronically and to make any payments due electronically.
- 103 The State Tax Commission will make an annual determination of those taxpayers and/or agents who shall be required to file their tax returns and related documents electronically and to make any payments due electronically. Such determination shall be made based upon the monthly or quarterly volume of returns being filed, the volume of supporting documentation required to be filed with each return or the annual payments made to the commission for each tax type.
- 104 The State Tax Commission will notify, in writing, those taxpayers or agents who shall be required to file tax returns and related documents electronically and to make payments electronically. With respect to persons required to file by Electronic Data Interchange (EDI), such notification shall be made at least one hundred and eighty (180) days in advance of any due date. With respect to persons required to file by other electronic means, such notification shall be made at least ninety (90) days in advance of any due date.
- 105 Any taxpayer or taxpayer's agent after securing the commission's approval may voluntarily file tax returns and related documents electronically. Such taxpayers or taxpayer's agents, except for those filing Individual Income Tax, shall make any payments due electronically.
- 106 The State Tax Commission will specify the manner and method in which the electronic filing and in which the electronic payment shall be made for each type of tax administered by the commission. In addition, the State Tax Commission shall provide

the taxpayer and/or their agent with the necessary instructions and procedures for electronic filing and electronic payment of taxes. Such instructions and procedures will be provided 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.

- 107 The identification of a taxpayer by name and identifying number on a return or report filed electronically with the State Tax Commission shall be deemed to be the authorized signature of the taxpayer on that return or report.
- 108 The taxpayers or their agents shall transmit their returns and other documents to the State Tax Commission's internet service provider (ISP) or value added network (VAN) as specified by the State Tax Commission. The State Tax Commission shall transmit an acknowledgement when a successfully transmitted return or report has been received. The absence of such acknowledgement shall be notice to the taxpayer and its agent that the report or return was not received. Any electronic funds transfer used to pay tax amounts due for a return or report electronically filed shall not be considered a completed payment by the taxpayer until the funds are properly credited to the account of the State Tax Commission.
- 109 (Reserved)

#### **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. The Registry is effective on and after January 1, 2015.

102 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.

103 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.

104 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.

105 (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 of Revenue 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](http://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)

## **Chapter 07 Justice Court Collections Fund**

- 100 General
- 101 The Justice Court Collections Fund 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 fund, the disbursement of monies within the fund 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 Fund. 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 Fund. 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 Fund 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 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 Fund to each participating county using DFA accounting reports. The DOR will then send a request to DFA to send the calculated distribution amount to each participating county.
- 105 The maximum amount that a county may receive from the fund is equal to the amount of deposits made into the fund by that county, less five percent (5%) that is retained by the DOR.
- 106 Per Miss. Code Ann. Section 9-11-35, disbursements of money from the fund 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 Collections 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 Justice Court Collections Fund.

205 (Reserved)

## **Chapter 08 Municipal Court Collections Fund**

100 General

101 The Municipal Court Collections Fund 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 fund, the disbursement of monies within the fund 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 Fund. 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 Fund. 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 Fund 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 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 Fund to each participating municipality using DFA accounting reports. The DOR will then send a request to DFA to send the calculated distribution amount to each participating municipality.

105 Per Miss. Code Ann. Section 21-23-23, disbursements of money from the fund 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.

106 (Reserved)

200 Collections 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 Municipal Court Collections Fund.
- 205 (Reserved)
- 300 Grants
- 301 In accordance with Miss. Code Ann. Section 21-23-23, excess monies allocated to the Municipal Court Collections Fund may be awarded as grants to participating municipalities as long as the use of the money is consistent with the purpose of the fund.
- 302 The amount of excess funds available in the Municipal Court Collections Fund on July 1 of each fiscal year may be used by the DOR to provide the municipal court collections grants.
- 303 Municipal court collections grants will only be made to participating municipalities that will use the monies to provide support for the purposes listed in Section 105 of this

regulation. The maximum amount that a city may receive from the fund is equal to the amount of deposits made into the fund by that city, less five percent (5%) that is retained by the DOR.

304 The amount of grant funds available will be determined at the end of each fiscal year based on the amount of excess money remaining in the Municipal Court Collections Fund and will be posted on the DOR website. A grant award is neither entitled nor guaranteed.

305 In order to receive consideration for a grant from the DOR the participating municipality must submit a proposal between July 1 and August 31 of each year containing the following:

1. The name of the municipality;
2. The name and address of the contact person;
3. The date of request;
4. A detailed narrative description of how the grant funds will be used and what they will be used for;
5. A timeline from the start date to the completion of the project;
6. Plans for how the municipality will account for the expenditure;
7. An itemized budget of the project or plan in which the grant funds will be used. The itemized budget should include the overall total costs of conducting the project or plan and how the grant funds will be applied;
8. If the proposal is supported or matched by additional funding by governments or other grant awards;
9. A copy of any local, state and federal permits applicable to the project;
10. A copy of the contract if the proposed uses of the grant funds include a contract; and
11. The selection process for the hiring of a contractor must be disclosed if a contractor is used.

306 The DOR Grant Review Committee (Grant Committee) will review and either accept or deny the grant proposal based on consistency with these regulations and the availability of funds. A letter response containing the decision will be sent to each municipality that submits a proposal.

307 Proposals will be evaluated and ranked with preference for approval based on the following factors:

1. Level of need;
2. Supporting or matching funds by government or other grant awards;
3. Previous grant approvals from this fund;
4. The need for additional funding supplemental to this grant award in order to complete the proposed project; and
5. Any other factors the Grant Committee deems relevant.

308 When funds requested exceed funds available, the ranking factors above may be used to determine which proposals are awarded grant funding. The Grant Committee, in its discretion, may also apportion available funding to applicants in a fair and equitable manner when the factors above do not yield clear award preferences.

- 309 The Grant Committee may refuse to approve a grant proposal for any of the following reasons:
1. The proposal is inconsistent with these regulations or with any State law.
  2. The participating municipality has failed to provide a complete proposal per Section 305 of these regulations.
  3. The proposal contains incorrect information.
  4. The proposal contains expenditures of grant funds that are unnecessary or that exceed usual and customary costs.
  5. Insufficient grant funds in the municipal court collections fund.
  6. The grant proposal is ranked lower by the Grant Committee than other proposals based on the factors in Section 307 of these regulations.
  7. The proposal is submitted by a participating municipality that is in violation of any condition of a previously awarded grant by the DOR.
  8. Any other factors as determined by the DOR.
- 310 Grant award conditions:
1. All grants require compliance with all applicable procurement and purchasing regulations established pursuant to state law.
  2. No grant funds should be utilized for costs not identified in the approved grant proposal unless otherwise approved by the DOR.
  3. A project must begin within six (6) months of receipt of the grant award or the monies shall be forfeited back to the DOR.
  4. Grants are awarded on a prospective basis only, meaning that the grant award date must occur before the project start date.
  5. At the discretion of the DOR, monies which are unspent after the completion of the project or the expiration date of the grant award, whichever occurs first, shall be forfeited back to the DOR.
  6. The expiration date of the grant award is one year from the grant award date unless otherwise approved by DOR.
  7. The DOR may include any other conditions as part of the grant award that it determines is necessary including project specific conditions.
- 311 A quarterly report and a final report upon completion of the project must be submitted to the DOR that includes a description of the progress of the project, expenditures to date and the current balance of the grant. All source documentation should be included with the quarterly report.
- 312 A report of all distributions and grant approvals for each fiscal year will be made available to the State Auditor's Office. Municipalities awarded grant funds are responsible for maintaining proper documentation to verify that funds were spent only on eligible project costs per the proposal.
- 313 Grants will be awarded October 1. Any funds not awarded as a grant on November 1 of each prior fiscal year may revert to the DOR.

314 (Reserved)