

**ADMINISTRATIVE PRACTICES AND PROCEDURES
FOR THE MISSISSIPPI STATE TAX COMMISSION**

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1 **SECTION 1. STATUTORY AUTHORITY**

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3 This Regulation is promulgated pursuant to the authority and requirements of the Mississippi
4 Administrative Procedures Law.

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7 **SECTION 2. APPLICABILITY**

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9 This Regulation shall be applicable to all matters falling within the jurisdiction of the Commission and
10 the Commissioner except to the extent a statute of the State of Mississippi provides otherwise. This
11 Regulation is in addition to and supplements those statutory provisions which may be applicable.

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14 **SECTION 3. GENERAL PURPOSE**

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16 The Agency regulates most tax matters in the State of Mississippi. The Mississippi State Tax
17 Commission's responsibilities also include the regulation of alcoholic beverages, property taxes, motor
18 vehicle tag and titles, and issuing permits and certain business registrations. The Commission and
19 Commissioner interpret the statutes that they are charged to administer and enforce.

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22 **SECTION 4. DEFINITIONS**

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24 When used in this Regulation:

- 25
26 A. "Commission" means the Chairman of the Mississippi State Tax Commission and the two
27 Associate Commissioners of the Mississippi State Tax Commission.
28
29 B. "Commissioner" means the Chairman and Commissioner of Revenue of the Mississippi State
30 Tax Commission.
31
32 C. "Review Board" means the Board of Review as legally constituted and authorized by Miss.
33 Code Ann. §§ 27-65-45, 27-7-79(3), and 27-13-65(10), comprised of those qualified employees
34 appointed by the Chairman of the State Tax Commission.
35
36 D. "Person" means natural persons, corporations, limited corporations, partnerships, associations,
37 or any other recognized entity.
38
39 E. "Taxpayer" means any person or fiduciary liable for or having paid any tax to the Mississippi
40 State Tax Commission.
41
42 F. "Agency" or "Mississippi State Tax Commission" means the various offices, bureaus, and
43 divisions of the Mississippi State Tax Commission that incorporate the functional duties and
44 responsibilities of the Commissioner as authorized by law.
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47 **SECTION 5. AGENCY ORGANIZATION**

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49 **A. Functional duties of the Agency.**

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The Mississippi State Tax Commission is statutorily responsible for the majority of revenue collection activities for the State. The major *functional* areas of the Agency are identified as follows:

1. Taxation, including but not all inclusive, of the following tax types:
 - Individual Income,
 - Corporate Income and Franchise,
 - Withholding,
 - Sales and Use,
 - Petroleum,
 - Real and Personal Property,
 - Motor Vehicle Licensing, and
 - Other taxes.
2. Business licensing, registration, and permitting of certain businesses
3. Motor Vehicle Tags and Titles including Interstate and Intrastate Trucking and Motor Vehicle Registration and Titles
4. Alcoholic Beverages including permitting, liquor distribution, and law enforcement.
5. In addition to the collection of taxes, the Mississippi State Tax Commission determines and certifies to the State Treasurer the tax diversions to counties, municipalities, and such special funds as provided by law within the State of Mississippi.

B. Agency organizational structure.

The following is the Agency organizational structure along with a brief description of the duties and responsibilities of each office:

1. Executive
 - a. Legal Division provides legal representation and advice to the Commission, Commissioner, and Agency employees. By and through its attorneys, the division represents the Commission in court cases and before various administrative bodies.
 - b. Human Resources is responsible for the Agency's personnel system, employee training, development and recognition programs, as well as employee policy development.
 - c. Communications and Internal Audit is responsible for coordination of communication activities, both internally and externally, and oversight in improving processes and functions through internal audit.
 - d. Board of Review hears appeals from persons and taxpayers that are aggrieved by certain actions of the Agency.

98 e. Commission Secretary acts as custodian of books, records and other documents of the
99 Commission, prepares minutes of meetings, orders for matters heard by the
100 Commission and responses to taxpayers and their representatives on tax related
101 questions, assists the Commission in formulating policy, and performs other duties as
102 assigned by the Chairman.
103
104

105 2. Office of Revenue is responsible for administering taxes imposed by the State of
106 Mississippi, registration functions related to taxation, registration and licensing of certain
107 businesses, issuance of motor vehicle titles, economic tax incentives, and issuance of forms.
108

109 a. Income and Franchise Tax Bureau is responsible for administering the Income and
110 Franchise Tax laws of this state.

111 i. Corporate Division administers Income and Franchise tax laws pertaining to
112 corporations, partnerships, LLC's, and other legal entities.

113 ii. Individual Division administers fiduciary and individual Income Tax laws.

114 iii. Withholding Division administers Withholding Tax laws.
115

116 b. Sales and Use Tax Bureau is responsible for administering the Sales and Use tax
117 laws as well as special county and city levies, Occupancy Tax, Motor Vehicle Rental
118 tax, and the Waste Tire Fee.

119 i. Contract Branch is responsible for handling issues related to Contractor's Tax on
120 qualifiable construction projects.

121 ii. Post Audit is responsible for issuing late filing penalty notices and performing
122 desk audits of tax returns.
123

124 c. Petroleum Tax Bureau administers tax laws relating to gasoline, special fuels,
125 lubricating oil, compressed gas, natural gas, and the International Fuel Tax Agreement
126 (IFTA).
127

128 d. Miscellaneous Tax Bureau is responsible for the administration of various taxes,
129 along with the issuance of licenses, and regulatory oversight for certain business
130 activities.

131 i. Privilege Taxes (Insurance Premium, Gaming, Finance Company, and Statewide
132 Privilege for Public Utilities)

133 ii. Excise taxes (Beer and Tobacco)

134 iii. Severance Taxes (Oil, Gas, Timber, and Salt)

135 iv. Estate Tax

136 v. Other taxes designated for special funds (Hazardous Waste, Non Hazardous
137 Waste, Public Utility Regulatory, Municipal Gas Regulatory, Railroad Regulation,
138 and E-911).
139

140 e. Motor Vehicle Licensing Bureau administers tax laws and fees imposed for use of
141 roads and highways within the State of Mississippi, International Registration Plan for
142 Mississippi-based interstate trucking firms, Motor Vehicle Registration, Motor Vehicle
143 Dealer Registration, and Intrastate Trucking. Additionally, the bureau issues tags and
144 tag decals to the eighty-two (82) counties.
145

- 146 f. Title Bureau administers the Mississippi Motor Vehicle Title Laws and issues
147 certificates of title for motor vehicles and manufactured homes.
148
- 149 3. Office of Audit and Compliance is responsible for performing audits of businesses and
150 individuals, directing compliance activities, collecting delinquent taxes, and assisting
151 businesses in applying for required permits, licenses, and registrations.
152 a. Criminal Investigations performs investigations of suspected criminal tax evasion.
153 b. Collections Bureau assists in the collection of delinquent taxes through the issuance
154 of liens, levies, garnishments, and other process.
155 c. District Service Offices are located in Brookhaven, Columbus, Greenwood, Biloxi,
156 Hattiesburg, Jackson, Meridian, Senatobia, and Tupelo. These offices provide
157 customer service and are home to the Agency's auditors and revenue officers.
158
- 159 4. Office of Administrative Services is responsible for providing administrative and support
160 services for the Mississippi State Tax Commission as well as accounting for the state's tax
161 revenue.
162 a. Accounting Bureau is responsible for administration of the Agency's budget and
163 ensures that all taxes received by the Agency are properly received, deposited,
164 recognized as revenue, disbursed, and reported.
165 b. Processing Bureau is responsible for the front-end processing of all tax returns and
166 documents and ensures that all returns and payments received by the Agency are
167 properly recorded and deposited.
168 c. Purchasing Division obtains goods and services and is also responsible for facilities
169 maintenance and security at the Agency's main office.
170 d. Print Shop Division is responsible for the bulk of all printing requirements of the
171 Agency (including tax forms). The division's mail operations handle the initial receipt
172 of all-incoming mail for the Agency as well as distribution of interoffice mail for the
173 main office. The warehouse is used for storage of forms, supplies, and records for the
174 Agency.
175
- 176 5. Office of Information Technologies is responsible for maintaining computing systems
177 within the Agency.
178 a. Infrastructure and Support is responsible for providing and maintaining hardware and
179 existing operating software to support the business operations of the Agency.
180 b. Systems Delivery is responsible for systems analysis, development, testing, and
181 deployment of all new application systems in support of Agency's business operations.
182
- 183 6. Office of Alcoholic Beverage Control is responsible for licensing alcoholic beverage
184 retailers, operating as wholesale distributor of alcoholic beverages, enforcement of
185 Mississippi's Prohibition and Local Option Laws, and regulation of the lawful sale of alcoholic
186 beverages.
187 a. Permit Branch processes all applications for licensing and, once permits are issued,
188 performs all on-going maintenance to the permit status, bonds, and renewals.
189 b. Warehouse stores the alcoholic beverage inventory sold by the Agency and fills and
190 ships orders to licensed retailers.
191 c. Purchasing Division is responsible for the registration of spirit and wine vendors and
192 their products overseeing liquor shipments including special orders into the warehouse
193 and providing inventory control.

194 d. Enforcement is responsible for enforcement of the Local Option ABC laws,
195 Prohibitions Laws, and certain laws regulating beer.

196
197 7. Office of Property Tax is responsible for monitoring the assessments of Ad Valorem value
198 levels and investigating the work product and appraisal methods adopted by the local governing
199 authorities in order for the Commission to equalize the valuation of property throughout the
200 state. (Ad Valorem or property taxes on real and personal property are primarily collected at the
201 local level rather than by the Mississippi State Tax Commission.)

202 a. Valuation and Exemption Bureau is responsible for preparing for the Commission's
203 consideration assessments of public service companies, private rail cars, aircraft, mobile
204 homes, motor vehicles, and reviewing industrial tax exemptions to determine if the
205 property qualifies for the exemption.

206 b. Homestead Exemption Branch is responsible for reimbursing taxing units of local
207 governing authorities for losses due to the granting of homestead exemptions.

208 c. Property Assessment Bureau ensures consistent appraisal and valuation equalization
209 of properties among the municipalities and counties of the state.

210 211 212 **SECTION 6. OBTAINING INFORMATION**

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214 The purpose of this section is to describe how a taxpayer or other interested party may obtain
215 information, other than information concerning proposed rules, from the Agency.

216 217 **A. Compliance with Mississippi Public Records Act of 1983.**

218 Any person needing to inspect or obtain a copy of any public record in the possession of the Agency
219 must make a written request to the Commission Secretary. The request must describe the record
220 requested and whether the record requested is to be provided through either personal inspection or
221 reproduction.

222
223 Upon receipt of the request, the Agency shall notify the requesting party of the cost or time and place
224 of access to the record. The requesting party must then forward the costs of producing any records.
225 The cost charged is pursuant to a fee schedule established by the Agency. Every reasonable effort
226 will be made to respond to the request within fourteen (14) working days from the date of when the
227 request was made and the fee to produce such record has been paid. Records may not be removed
228 from the Agency for reproduction purposes.

229
230 If the Commissioner denies the requesting party access to any record, the requesting party will be
231 notified in writing of the cause of denial within fourteen (14) working days from the date of the
232 request.

233 234 **B. Obtaining copies of tax returns or applications filed with the Agency.**

235 All tax returns, including documents supporting those returns and other tax forms required to be filed
236 with the Agency, are confidential and specific information relating to a particular taxpayer is not public
237 information. The Agency may not release confidential information to anyone other than the taxpayer
238 unless specifically authorized by the taxpayer, statute, or directed to do so by a proper judicial order.

239
240 A taxpayer may request a copy of personal filings by submitting a written request. The request must
241 be signed by the taxpayer. In the case of a return of an individual, this request must be signed by that
242 individual. In the case of an income tax return filed jointly, this request must be signed by either of the

243 individuals with respect to whom the return is filed. In the case of a partnership, this request must be
244 signed by any member of the partnership during any part of the period covered by the record requested.
245 In the case of a return filed by a member managed limited liability company, this request must be
246 signed by any person who is a member of the limited liability company. In the case of a return filed by
247 a manager managed limited liability company, this request must be signed by any manager of the
248 limited liability company. In the case of a return of a corporation, this request must be signed by a
249 principal officer of the corporation and attested to by the corporation's secretary or another officer.

250
251 A taxpayer may request copies of returns to be released to other parties by providing the Agency a
252 signed and notarized document authorizing the release of the document.

253
254 The written request for copies should be submitted to the direction of the Commission Secretary. A
255 fee is charged for the cost of reproducing the copies.

256 **C. Title and motor vehicle tag information.**

257
258 If a person needs to obtain information from an individual motor vehicle record maintained by the
259 Agency, that person must qualify under the guidelines set by federal statute. The Agency has
260 promulgated Revenue Rule 3 in accordance with the Federal Driver's Privacy Protection Act that
261 protects certain information contained on motor vehicle records. In order to request information,
262 Form 77-600 must be completed and forwarded along with the appropriate fees to the Agency for
263 processing. This form and regulation along with other applicable information is available on the
264 Agency website at www.mstc.state.ms.us.

265
266 Any title and motor vehicle tag information received by the requesting party is privileged and may not
267 be disclosed to anyone else unless provided for in the rule. Please note that using the information
268 acquired from motor vehicle records for any use other than a permitted use as defined in the rule may
269 subject the offender to criminal fines and other damages.

270 **D. Publications.**

271
272 Persons may receive information through instructions included with forms, notices written concerning
273 law changes or procedural changes, booklets, and other publications of the Agency. This information
274 is provided to answer those questions frequently asked but is not intended to be all inclusive. In any
275 situation where the information provided does not adequately address the person's particular
276 circumstances, it is advisable to seek additional guidance.

277
278 Interested parties may, for a fee, order a copy of these publications by sending a request to the
279 Commission Secretary, however, much of this information may be found free of charge on the
280 Agency's website.

281 **E. Website.**

282
283 Statistical information may be obtained from the Agency website. Many forms are available online and
284 may be printed for use.

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286 The website also contains links to other websites including links operated by other government
287 agencies, tax related organizations, and tax software providers. The Agency has no control over the
288 content included in websites other than its own.

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290 An individual may check the status of an individual income tax refund online. Persons may also check
291 the validity of certain tax permits or licenses on the website.

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SECTION 7. ADOPTION OF RULES AND REGULATIONS

The Commission and/or Commissioner are authorized by statute to promulgate rules and regulations consistent and complementary with the law 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 procedure or practice of the Agency and may include responsibilities of a person not specifically required by statute or by an existing rule or regulation, but this does not include those items excluded in Mississippi Code 25-43-1.102 (i) from the definition of "rule". The terms "rule" and "regulation" are synonymous of each other and the Commission and Commissioner use both terms in referring to the rules they adopt and promulgate. The following discussion of the rule making process applies not only to rules but also to regulations.

With the exception of emergency rules as outlined in Paragraph J of this section, adoption of a new rule or regulation or the amendment of an existing rule is a multi-step process including the following:

A. 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 Commission or Commissioner.

B. Preparing economic impact statement.

An estimate of the costs and benefits to the public, Agency, or to any other government entity of implementing and enforcing the proposed rule and any anticipated effect on state or local revenues will be prepared by the Agency when and as provided by 25-43-3.105 Mississippi Code. A summary of this economic impact statement will be filed with the Secretary of State for publication along with the Commission's or 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.

An interested party may submit any specific concerns about the economic impact statement during the public comment period to the Agency contact person provided in the notice of intent to adopt a rule.

C. Notice of intent to adopt a rule or rule amendment.

A notice of intent to adopt a rule or rule amendment will be prepared including information pertaining to 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 and its estimated costs, opportunities for public comment, and the text of the rule.

The notice will be sent to the Secretary of State and to interested parties who are on the Agency Rule Notification Register.

D. Providing opportunity for interested parties to comment.

An opportunity for public participation by means of a public comment period will be provided. 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.

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 Commission Secretary within the provided time period for public comment.

341 The Commission or Commissioner may hold a hearing prior to the final adoption of a proposed rule or
342 amended rule. Public comment will be accepted at the hearing. Written comments received or
343 comments made at the hearing are not binding, but will be considered by the Commission or
344 Commissioner in determination of the final form of the rule or rule amendment.

345
346 The Commission or Commissioner may designate an officer for the purpose of presiding over said
347 hearing and for documenting attendance and comments made. The presiding officer can be a member
348 of the Commission, the Commission Secretary, or an employee of the Agency.

349
350 The hearing date will be scheduled for a date that is at the minimum twenty (20) days after the notice
351 of the proposed rule is filed with the Secretary of State. The hearing will be open to the public.
352 Anyone wishing to make a presentation at the hearing should notify, in writing, the Commission
353 Secretary no less than seventy-two (72) hours prior to the scheduled hearing time. The written request
354 to speak must include a brief description of the position that will be presented.

355
356 The presiding officer may limit the time allotted to each speaker. The number of speakers addressing
357 a specific position on an issue may be limited by the presiding officer to prevent undue repetition at the
358 hearing. In the event speakers representing a specific position are limited, the speakers selected to
359 speak to their position will be determined based upon order of receipt of the request. The speaker will
360 be notified of the time allotted and if the speaker is denied due to cause of repetition or failure to
361 timely request opportunity to speak at the hearing.

362
363 A record of all persons or entities requesting opportunity to speak will be maintained. This record will
364 include the written requests to speak at the public hearing and any denials for cause of repetition or
365 untimely filing of request to participate in the public hearing. All persons participating or unable to
366 participate in the hearing may submit written comments at any time during the public comment period.

367
368 All persons in attendance will be requested to sign a register to document their attendance at the
369 hearing. A printed agenda including the names of all speaking and their positions on issues
370 concerning the proposed rule will be provided to those in attendance.

371
372 **E. Filing the rule for adoption.**

373 The Commission and/or Commissioner may change, alter, or delete any provisions of the proposed
374 rule after the public comment period unless such change, alteration, or deletion would prevent the rule
375 from being finally adopted per Section 25-43-3.107 Mississippi Code. The Commission and/or
376 Commissioner will file the final form of the rule or rule amendment with the Secretary of State. The
377 effective date is thirty (30) days after filing with Secretary of State unless another date later than the
378 required thirty (30) days required is specified in the law or rule.

379
380 **F. Obtaining information on proposed rules.**

381 The Agency will maintain a register of all persons or entities that have requested notices for **all**
382 proposed rule changes. The Agency will send notice on all proposed rules or rule amendments to these
383 persons by mail. A fee for this service will be charged for mailing the notice and billing will
384 accompany all notices. A *minimum* fee of \$25 will be charged for each notice that is mailed. Failure to
385 remit the fee as provided will forfeit any future mailings until such fee has been paid. Any interested
386 person may be included on the mailing register for all proposed notices by writing to Commission
387 Secretary. It is a person's responsibility to provide and keep a correct address on file with the Agency.

388

389 If a person desires notice on all proposed rules and is agreeable to receiving the notices by e-mail,
390 there will be no charge for this service. Any interested person may be included on this register by
391 writing to the Commission Secretary. If email preference is not specified, notice will be sent by mail
392 which includes a fee.

393

394 A person may also request a copy of a proposed rule or rule amendment on a single time basis by
395 contacting the Agency as provided above. Rule information may also be obtained on the Agency web
396 site.

397

398 **G. Rule making record.**

399 The Agency will maintain a current rulemaking docket that contains a listing of the subject matter of
400 possible rules under active consideration within the Agency.

401

402 The rulemaking docket shall include all information related to the rule in process. Included will be:

403

- 403 1. The subject matter of the proposed rule,
- 404 2. Reference to all published notices relating to the proceeding,
- 405 3. Where written submissions or written request for an opportunity to make oral presentations
406 on the proposed rule may be inspected,
- 407 4. The time during which written submissions may be made,
- 408 5. Where and when oral presentations may be made,
- 409 6. Where any economic impact statement and written requests of the issuance of other
410 information concerning an economic impact statement may be personally inspected,
- 411 7. The current status of the proposed rule, and
- 412 8. The date of each rule's adoption and when the rule becomes effective.

413

414 All materials, submissions, reports, and other information that relates to each rule adoption process and
415 procedure will be maintained at the main offices of the Mississippi State Tax Commission and will be
416 available for public inspection by contacting the Commission Secretary.

417

418 **H. Repeal of a rule.**

419 If the Commission and/or Commissioner determine that an existing rule should be repealed, the
420 process followed will be the same procedure as for adoption of a new rule or amendment to a rule.

421

422 **I. Termination of the proceeding.**

423 The Commission and/or Commissioner may determine that the rule or rule amendment should not be
424 adopted after the notice of proposed rule but prior to adoption of the rule. In such event, notice of a
425 termination will be filed with the Secretary of State and notice will be provided to those persons listed
426 on the Rule Notice Register.

427

428 **J. Emergency rules.**

429 The Commission or Commissioner may determine that an imminent peril to the public health, safety,
430 or welfare requires adoption of a rule with less than twenty-five (25) days notice as normally provided.

431

432 In such event, the Commission or Commissioner will notify the Secretary of State of the need for an
433 emergency rule, the form of the rule, and the effective dates of the rule. There will be no public
434 hearing or public comment period provided.

435

436 The Commission or Commissioner will determine if the need for the emergency rule continues, and if
437 so, will begin the process to adopt the rule permanently as provided in this section.

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SECTION 8. HEARINGS AND APPEALS

This section describes the administrative appeal process applied when a person is aggrieved by certain actions of the Agency. Typically, that action is an assessment of tax when the taxpayer does not agree tax is due; however, the action may also include a denial of refund, assessment of penalties or interest, and other similar items. The intent of the administrative appeal process is to provide the taxpayer an opportunity to supply information to secure a just resolution or decision.

A. Informal review.

The person may seek an informal review of any assessment or other action believed incorrectly issued or any refund improperly denied.

In the case when an auditor or examiner determines additional tax is due, the taxpayer should first attempt to resolve any questions with the auditor or examiner. If unable to reach an understanding of the audit results with the auditor, a conference with the auditor's supervisor 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 facts of the case are correct and complete.

An informal review may be granted for any situation, but is not required before seeking administrative appeal. The taxpayer 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.

B. Representation.

The taxpayer may represent himself or may choose to have a representative at any point throughout the appeal process. Hearings of tax matters (with the exception of ad valorem tax) are considered confidential and are not open to the public; however, a taxpayer may permit another person(s) to attend the hearing and to participate as deemed appropriate or necessary.

C. Interest continues 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.

D. Written requests for administrative appeal.

The taxpayer or person appealing must request a hearing in writing. The written request for appeal should include a statement of the relief being sought and the amount of tax, fees, interest and/or penalty in dispute. The request should also include the tax identification or tax account number, type of tax and tax periods involved, and the reason the taxpayer or person appealing disagrees with the assessment or action.

The deadlines for requesting an administrative appeals vary by the type of tax or action being appealed. The timelines for these appeals are explained further in this section. A request for appeal not received within the time periods provided below will be considered barred by the statute of limitations and will be dismissed.

E. Notice of hearing.

486 The taxpayer or the taxpayer's authorized representative will be notified of the hearing by mail. The
487 hearing notice will contain the time, place, and date of the hearing. Notice to the person's or taxpayer's
488 authorized representation constitutes notice to the person or taxpayer.

489
490 **F. Continuance of hearing.**

491 A request for a continuance of the hearing will be routinely granted if the request is received within ten
492 (10) days after the notice of the hearing is mailed. If the request for continuance is received beyond
493 ten (10) days, then the determination to continue the hearing will be decided by the Chairman of the
494 Review Board or the Commissioner.

495
496 The Tax Commission will not be responsible for delay in the delivery of mail.

497
498 **G. Confidential hearings.**

499 All hearings for the purpose of appealing tax actions, excluding ad valorem tax actions, are closed to
500 the public due to the confidential nature of the subject matter. However, through written authorization
501 of the taxpayer, the taxpayer may waive the right to a closed hearing.

502
503 All hearings relating to anything other than tax matters are open to the public.

504
505 **H. Items not subject to appeal.**

506 Items, in general, not subject to administrative appeal include but are not limited to:

- 507 1. Certain bond amounts,
508 2. Penalty rate increases,
509 3. Declaratory Opinions,
510 4. Letter rulings,
511 5. Oral or written advice,
512 6. Issuance of levy or garnishments,
513 7. Issuance of liens, warrants or jeopardy warrants, and
514 8. Diversions or distributions of tax revenue.

515
516 **I. Request for removal of voting member of appeal board.**

517 Any person may request that a member of the voting panel of the Review Board be replaced or a
518 member of the Commission not participate in a hearing if it appears that person's impartiality might be
519 questioned by a reasonable person knowing all the circumstances, or for other grounds.

520
521 A written or verbal request for removal of a voting member from the decision process stating the
522 reason the member's partiality is questioned must be made by the taxpayer or person appealing before
523 the commencement of a Review Board hearing. A written request for removal of a member of the
524 Commission from the decision process must be made by the taxpayer or person appealing no more
525 than two (2) weeks after receiving notice of a hearing before the Commission.

526
527 **J. Timelines for filing appeal.**

- 528 1. Sales and Use Tax.

529 The taxpayer, if aggrieved by an assessment of tax, may apply for a hearing before the Review
530 Board. The taxpayer must submit a request in writing no more than ten (10) days after the
531 notice is mailed.

532

533 If the Board determines that the tax is due, the taxpayer must pay the assessment or appeal the
534 action further to the Commission no more than ten (10) days after the order is issued by Review
535 Board.

536
537 If the Commission determines that the tax is due, the taxpayer must pay the tax due no more
538 than ten (10) days after the order of the Commission is mailed.

539
540 The taxpayer may file suit for recovery of the tax with the Chancery Court of Hinds County or
541 the county of residence or place of business for recovery of the amount paid. All suits to
542 recover taxes shall be filed within three years from the time the return was filed or from the
543 time the assessment was made. The administrative appeal process does not stay the time
544 limitation for filing with the court for recovery of tax. Exhaustion of such administrative
545 appeal process is not a prerequisite for bringing a suit for recovery of sales or use tax.

546
547 **2. Revocation of Sales Tax Permit.**

548 Upon receiving a notice that the taxpayer's sales tax permit is being revoked, the taxpayer may
549 appeal in writing to the Commissioner no more than ten (10) days after the notice is received.
550 The Commissioner may appoint a designee to hear the appeal. If a permittee is aggrieved by
551 the decision of the Commissioner or designee, the permittee may appeal to the Commission
552 within ten (10) days after the order is mailed.

553
554 **3. Income Tax (Individual or Corporate) and Franchise Tax.**

555 The taxpayer, if aggrieved by an assessment of tax, penalty, interest, or a denial of a refund,
556 may apply for a hearing before the Review Board. The taxpayer must submit a request in
557 writing within thirty (30) days of the date of the notice.

558
559 If the Review Board determines that an assessment is due, the taxpayer must pay the
560 assessment or appeal the action to the Commission within thirty (30) days from the date of the
561 order of the Review Board.

562
563 If the Commission determines that the tax is due, the taxpayer must pay the tax due or appeal
564 the action to the Chancery Court within thirty (30) days of receipt of the order of the
565 Commission.

566
567 The taxpayer may file suit in Hinds County or with the county of residence or domicile for a
568 review of the findings of the Commission. If the taxpayer is a non-resident or a foreign
569 corporation, the petition may be filed in the county in which the place of business is located or
570 in Hinds County. The taxpayer must post a bond double the amount in controversy.

571
572 **4. Income Tax or Withholding refund.**

573 If an audit, examination, or other investigation has not been initiated and a refund has not been
574 paid within six (6) months after the final date for filing a return, the taxpayer may, in writing,
575 file an appeal to the Commissioner. The Commissioner may appoint a designee to hear the
576 cause.

577
578 If the taxpayer is aggrieved by the decision of the Commissioner, a request for a hearing before
579 the Commission may be made within thirty (30) days of the date of the notice by the
580 Commissioner.

581

582 If the taxpayer is aggrieved by the decision of the Commission, a petition may be filed for
583 recovery of tax within thirty (30) days from receipt of the order of the Commission with the
584 Chancery Court of Hinds County or the county of residence or domicile.

585
586 5. Petroleum Taxes.

587 The taxpayer, if aggrieved by an assessment of tax or any other act or order, may apply for a
588 hearing before the Review Board. The taxpayer must submit a request in writing no more than
589 thirty (30) days after the notice is mailed.

590
591 If the Board determines the assessment is due, the appellant must pay the amount due or file an
592 appeal, in writing, to the Commission no later than thirty (30) days after the Order is issued by
593 the Review Board. If a person is aggrieved by the decision of the Board on any other matter,
594 such person may file an appeal, in writing, to the Commission no later than thirty (30) days
595 after the Order is issued by the Review Board.

596
597 If the Commission determines that the assessment is due, the taxpayer must pay the assessment
598 due no more than thirty (30) days after the order is issued by the Commission.

599
600 Any person aggrieved by the final Order of the Commission including any person charged with
601 any tax and required to pay same, may appeal such order to the Chancery Court of Hinds
602 County Mississippi or the Chancery Court of his residence or principal place of business within
603 this State. Such appeal must be made no later than thirty (30) days from the date the Order is
604 issued.

605
606 6. Motor Vehicle Privilege Taxes.

607 The taxpayer, if aggrieved by any order or tax assessed and/or collected by the Agency, may
608 request a hearing before the Review Board. For any assessment for which payment is not
609 required to be made immediately, the taxpayer must submit a request in writing no more than
610 ten (10) days after the date of assessment or due date, whichever is later. For any assessment
611 that has been paid, the taxpayer must submit a request in writing within thirty (30) days of such
612 payment.

613
614 If the Review Board determines that the tax is due, the taxpayer must pay the tax no more than
615 ten (10) days after the order is issued or within the time prescribed by the Review Board. The
616 taxpayer may appeal the action further to the Commission no more than thirty (30) days after
617 the notice is mailed.

618
619 If the Commission determines that the tax is due, the taxpayer must pay the tax due within
620 thirty (30) days of the order of the Commission.

621
622 The taxpayer may file suit within thirty (30) days of the order of the Commission with the
623 Chancery Court of Hinds County or the county of residence or place of business for recovery of
624 the amount paid.

625
626 7. Titles for Motor Vehicles or Manufactured Housing.

627 A person, if aggrieved by any order or act of the Agency regarding a title for a motor vehicle or
628 manufactured home, may apply for a hearing before the Review Board. The taxpayer must
629 submit a request in writing within ten (10) days of the date of the notice.

630

631 If the person remains aggrieved by the decision of the Review Board, the person may appeal
632 the action to the Commission within thirty (30) days of the order of the Review Board.

633
634 If a person is aggrieved by a denial of title or other action involving a title issued by the
635 Agency, a petition for relief may be filed with the county or circuit court within ninety (90)
636 days of the date of the notice.

637
638 8. Estate Tax.

639 The taxpayer, if aggrieved by an assessment of tax or denial of refund, may appeal to the
640 Commissioner within one year of the date of notice of assessment or the date of filing the
641 return. The Commissioner may appoint a designee to hear the appeal.

642
643 If the taxpayer disagrees with the determination of the Commissioner, the taxpayer may appeal
644 to the Commission for a hearing within thirty (30) days of the date of the notice.

645
646 The taxpayer, if aggrieved by the decision of the Commission, may file suit with the Chancery
647 Court of Hinds County or the Chancery Court where the estate is being administered within
648 thirty (30) days of the date of the notice.

649
650 9. Gaming Taxes.

651 The taxpayer, if aggrieved by an assessment of tax, fees, interest or penalty, may apply for a
652 hearing before the Review Board. The taxpayer must submit a request for a hearing in writing
653 no more than ten (10) days after the notice is mailed.

654
655 If the Board determines that the assessment is due, the taxpayer must pay the assessment or
656 appeal the action to the Tax Commission within ten (10) days of the order of the Review Board.

657
658 If the Commission determines that the tax is due, the taxpayer must pay the tax due within ten
659 (10) days of the order of the Commission.

660
661 If the taxpayer remains aggrieved with the decision of the Commission, a suit may be filed
662 within thirty (30) days of the order of the Commission with the Chancery Court of Hinds
663 County or the county of the place of business for recovery of the amount paid.

664
665 10. Ad Valorem: Determination of qualification of property for exemption as a new or
666 expanded enterprise.

667
668 Any determination by the staff of the Commission that property is not eligible for an exemption
669 under Miss. Code Ann. § 27-31-101 for a new enterprise or under Miss. Code Ann. § 27-31-
670 105 as an addition or expansion shall be final unless within thirty (30) days from receipt of a
671 notice of this determination, the applicant for the exemption requests a review of this
672 determination by the Commission. This request for review must be in writing, set forth the
673 reasons why this determination is in error and must be received by the Commission Secretary
674 within this thirty (30) day period.

675
676 Upon receipt of such a request, a hearing will be scheduled. At or after the hearing, the
677 Commission will determine whether the property in question qualifies for the exemption
678 sought. The Commission will then issue its Order certifying whether or not the property in

679 question qualifies for the exemption sought and provide such certification to the governing
680 authority of the municipality and/or the board of supervisors of the county involved.

681
682 11. Ad Valorem: Rejection by Agency of homestead application for tax loss reimbursement.
683

684 The Agency is charged with the responsibility to examine all homestead exemptions allowed
685 by the various Boards of Supervisors in this State and to reject for tax loss reimbursement any
686 exemption allowed by the Boards if it is determined that such allowance does not conform to
687 the requirements of law in every substantial particular or for which no application has been sent
688 to the Commission. Only the Board of Supervisors has the authority to object to the Agency's
689 rejection of homestead exemptions for tax loss reimbursement.

690
691 If a Board of Supervisors objects to a rejection by the Agency of a homestead exemption
692 application for tax loss reimbursement, the Board of Supervisors shall promptly advise the
693 Commission of its objection on forms prescribed and furnished by the Commission wherein the
694 Board shall state in detail the grounds for its objection. The Commission's consideration of the
695 objection may be by hearing, in person or by correspondence. If the Board desires a hearing on
696 its objection, it must request such hearing within thirty (30) days from the date of the meeting
697 of the Board of Supervisor wherein the Board decided to object to the rejection by the Agency.
698 This request for a hearing must be in writing, identify the homestead application in issue and
699 must be received by the Commission Secretary within this thirty (30) day period.

700
701 After consideration of the objection, the Commission will make a final decision on the
702 objection and the Board of Supervisors will be advised on that decision. The decision of the
703 Commission in rejecting a homestead exemption application for tax loss reimbursement shall
704 be final, and the Board shall disallow all applications finally rejected by the Commission.
705

706 12. Ad Valorem: Order directing actions to comply with Miss. Code Ann. § 27-35-113.
707

708 The Board of Supervisors of any county aggrieved by an order of the Commission directing
709 what actions that county must take in order to comply with the provisions of Miss. Code Ann. §
710 27-35-113 may appeal such order to the Commission. This appeal must be received by the
711 Commission Secretary within thirty (30) days of the date the order being appealed was mailed
712 to the Board of Supervisors. After the hearing on this appeal, the Commission shall affirm,
713 modify or rescind its prior order, but shall not take any action which is inconsistent with the
714 provisions Miss. Code Ann. § 27-35-113. This decision by the Commission after the hearing
715 will be final.

716
717 13. Ad Valorem: Assessment of public service companies.

718 The Commission shall issue its ad valorem assessments of railroads and certain other public
719 service companies on the first Monday of June of each year or as soon thereafter as practical.
720 Upon issuance, the assessments shall remain open for twenty (20) days in the office of the
721 Commission for objections. Any objection must be in writing, identify the taxpayer assessed
722 and must be received by the Commission Secretary within this twenty (20) day period.
723

724 On the first Monday in July of each year, or as soon thereafter as practical, the Commission
725 will convene and hear and determine any timely objections to these ad valorem assessments.
726 At or after the hearing, the Commission will determine whether the objection raised should be
727 sustained and what adjustments, if any, should be made in the assessment. An order will be

728 entered on the minutes of the Commission documenting the action of the Commission in regard
729 to the assessment and making the assessment final.

730
731 Any person, including the State, who is aggrieved by the order of the Commission making final
732 an ad valorem assessment against a railroad or other public service company may appeal to
733 Circuit Court as provided in Miss. Code Ann. § 27-35-163. This appeal must be filed within
734 twenty (20) days from the date of the adjournment of the Commission meeting where the
735 assessment was made final.

736
737 14. Ad Valorem: Assessment of railcar companies.

738 The Commission annually assesses the property of the persons, firms, partnerships, companies,
739 associations or corporations engaged in the business of operating, furnishing or leasing cars for
740 the transportation of freight, or to be used in the operation of any railway line or lines wholly or
741 partially within this state, hereinafter referred to as railcar companies. These assessments are
742 commonly referred to as “railcar assessments”.

743
744 When made and completed, these railcar assessments shall remain open in the offices of the
745 Commission for twenty (20) days for inspection and objection by the railcar companies. Any
746 objection must be in writing, identify the railcar company assessed and must be received by the
747 Commission Secretary within this twenty (20) day period.

748
749 Upon receipt of an objection, the Commission Secretary will schedule a hearing before the
750 Commission for consideration of the objection. At or after the hearing, the Commission will
751 determine whether the objection raised should be sustained and what adjustments, if any,
752 should be made in the assessment. An order will be entered on the minutes of the Commission
753 documenting the action of the Commission in regard to the assessment and making the
754 assessment final.

755
756 Any person, including the State, who is aggrieved by the order of the Commission making final
757 a railcar assessment may appeal to Circuit Court as provided in Miss. Code Ann. § 27-35-163.
758 This appeal must be filed within twenty (20) days from the date of the adjournment of the
759 Commission meeting where the assessment was made final.

760
761 15. Ad Valorem: Assessment of aircraft operated by airline companies.

762 The Commission annually assesses, adjusts, equalizes and apportions the valuation of all
763 aircraft operated in this state by airline companies. These assessments are issued in the name
764 of the airline company operating the aircraft and are consolidated to reflect the valuation of all
765 aircraft operated by the airline company in this state. Upon issuance, such ad valorem
766 assessments of aircraft shall remain open for twenty (20) days in the office of the Commission
767 for objections. Any objection must be in writing, identify the airline company named in the
768 assessment and must be received by the Commission Secretary within this twenty (20) day
769 period. Any objection received by the Commission Secretary outside of this time period will
770 not be considered by the Commission.

771
772 On the first Monday in July of each year, or as soon thereafter as practical, the Commission
773 will convene and hear and determine any timely objections to these ad valorem assessments of
774 aircraft. At or after the hearing, the Commission will determine whether the objection raised
775 should be sustained and what adjustments, if any, should be made in the assessment. An order

776 will be entered on the minutes of the Commission documenting the action of the Commission
777 in regard to the assessment and making the assessment final.

778
779 Any person, including the State, who is aggrieved by the order of the Commission making final
780 an ad valorem assessment of aircraft may appeal to Circuit Court as provided in Miss. Code
781 Ann. § 27-35-163. This appeal must be filed within twenty (20) days from the date of the
782 adjournment of the Commission meeting where the assessment was made final.

783
784 16. Motor Vehicle Ad Valorem Penalties.
785 For an Ad Valorem penalty that has been paid to a county tax collector and the person is in
786 disagreement with said penalty, the person must submit a request in writing within thirty (30)
787 days of such payment for a hearing before the Review Board.

788
789 If the person remains aggrieved with the decision of the Review Board, the person may appeal
790 in writing to the Commission no more than thirty (30) days after the notice is mailed.

791
792 17. Recovery of Tobacco Tax wrongfully paid.
793 An appeal of an assessment of Tobacco Tax follows the appeal procedures set forth in the Sales
794 Tax Law with regard to a hearing before the Review Board and Commission.

795
796 A taxpayer aggrieved at the findings of the Commissioner may recover amount wrongfully paid
797 by filing suit in the Circuit Court of Hinds County within thirty (30) days of such action.

798
799 18. Violation of Unfair Cigarette Sales Law.
800 The Commission may revoke or suspend the Tobacco Permit of any person who refuses to
801 comply with the Unfair Cigarette Sales Law. The permittee is to be provided ten (10) days
802 notice of the hearing. The order of the Commission is subject to review by a court of
803 competent jurisdiction and the taxpayer should file a petition for relief within thirty (30) days
804 after the order of the Commission is issued.

805
806 19. Tobacco Permit suspension or revocation.
807 The Commissioner may suspend or revoke a permit after providing the permittee ten (10) days
808 notice in writing following the appeal procedures set forth in the Sales Tax Law with regard to
809 a hearing before the Review Board and Commission.

810
811 20. Beer Permit suspension or revocation.
812 A permittee may appeal in writing to the Review Board within ten (10) days upon receiving
813 notice of the Commissioner's intent to suspend or revoke a beer permit.

814
815 A permittee may appeal in writing within thirty (30) days the decision of the Review Board to
816 the Commission.

817
818 If the action is appealed to the Commission, an official record and transcript will be made of
819 the hearing.

820
821 21. Unlawful sale of beer to person not holding permit.
822 Sales by wholesalers to persons not holding valid retail permits are unlawful and the
823 Commissioner shall fine such wholesaler for each sale. The Commissioner shall provide said

824 wholesaler notice and the wholesaler may petition the Commissioner for a hearing within ten
825 (10) days of receipt of the notice.

826

827 22. Other tax types.

828 The following tax types follow the timeline for administrative appeals as described for sales
829 tax:

830

831 Motor Vehicle Rental, Waste Tire, City Utility, E-911, Beer, Tobacco, Gas Severance, Oil
832 Severance, Salt Severance, Timber Severance, Hazardous Waste Disposal, Non-Hazardous
833 Waste Disposal, Finance Company Privilege, Insurance Premium, Statewide Privilege,
834 Railroad Regulatory, Municipal Gas Regulatory, Public Utility Regulatory, Special City and
835 County taxes, Occupancy Tax, and other special levies collected by the Agency.

836

837 23. Any other appealable matter not specifically addressed.

838 A taxpayer or person, if aggrieved by an assessment of tax or other appealable action of the
839 Agency and that assessment or action is not addressed by the tax code, may apply for a hearing
840 of the matter before the Review Board. The taxpayer must submit a request in writing no more
841 than ten (10) days after receipt of the notice.

842

843 If the taxpayer or person remains dissatisfied with the decision of the Board, he may file an
844 appeal with the Commission within (30) days after the date of the notice from the Board of
845 Review of its decision.

846

847 The taxpayer or person, if aggrieved by the order of the Commission, may appeal to the circuit
848 or chancery court as provided by law no more than thirty (30) days after the date of the notice.

849

850 **K. Review Board hearing.**

851 With exception of matters administered by the Office of Alcoholic Beverage Control and Commission
852 actions related to Ad Valorem Tax, a taxpayer or person in disagreement with an assessment, refund,
853 or other appealable action of the Agency may request a hearing before the Review Board. Three
854 members of the Review Board shall constitute a quorum and may hear any matter before the Review
855 Board. Any member of the Review Board who has had direct involvement with a specific taxpayer's
856 action may not sit on the panel as a voting member to hear the appeal of such action. This limitation
857 is not to be construed in any manner to prevent a member of the Board from hearing an appeal on any
858 specific subject matter or topic. The provision only prevents the member from deciding on an
859 individual taxpayer's case when he or she has had actual involvement with the cause for appeal.

860

861 Upon timely receipt of a written request from the taxpayer or an authorized representative, the Review
862 Board shall promptly schedule a hearing for consideration of the appeal. At the hearing, the Review
863 Board shall decide the issues presented according to applicable law and the facts.

864

865 A decision in favor of the taxpayer may be made without a hearing when the facts are not in dispute,
866 the issues are clearly identified, or the law has been applied to similar situations in previous decisions.

867

868 There will be no official transcript or recording made of a Review Board hearing. The official record
869 of the hearing will be the minutes and orders of the Review Board which are confidential for all tax
870 matters. Review Board hearings shall be informal and the rules of evidence will be relaxed.

871

872 The person requesting the hearing or the person's authorized representative will be asked to discuss the
873 facts supporting the claim to provide explanation of how the law supports that claim. Representatives
874 of the Agency may also be asked to discuss the facts in support of the action or cause.

875
876 The Review Board may request the person appealing the matter or Agency staff to provide additional
877 information and/or documents during the course of its review. Time limits for submission of the
878 additional information or documents will be established by the chair of the Review Board. If the
879 person from whom information or documents are requested fails to respond to the request in the time
880 provided, the Review Board may decide the appeal without the supplemental documents or
881 information.

882
883 An Order will be issued after the Review Board has fully considered the information provided at the
884 hearing, any post-hearing information, and the laws specific to the case. The chair of the Review
885 Board will prepare the order and mail it to the taxpayer or authorized representative. Notice to the
886 authorized representative constitutes notice to the taxpayer.

887
888 The Review Board may elect to uphold the assessment, to amend the assessment, to issue a revised
889 assessment, to issue a refund or credit, to remand the issue to the originating division for further work,
890 or any other action it deems appropriate.

891
892 If the person remains aggrieved with the decision of the Review Board, the action may be appealed to
893 the Tax Commission.

894
895 **L. Commission hearing.**

896 Any authorized appeal must be timely made to the Commission in writing. The Commission shall
897 consider the appeal request and notify the person appealing or his authorized representative of the time
898 and place fixed for the hearing. Any two members of the Commission constitute a quorum and may
899 hear all appeals.

900
901 The person or the authorized representative will be asked to discuss the facts and documents in support
902 of the claim and to explain how the law supports that claim. Commission hearings shall be informal
903 and the rules of evidence will be relaxed.

904
905 The Commission may request the person appealing the matter or Agency staff to provide additional
906 information and/or documents during the course of its review. Time limits for submission of the
907 additional information or documents will be established by the chair of the Commission. If the person
908 from whom information or documents are requested fails to respond to the request in the time
909 provided, the Commission may decide the appeal without the supplemental documents or information.

910
911 The Commission may elect to uphold the assessment or action, to amend the assessment, to issue a
912 revised assessment, to issue a refund or credit, to remand the issue to the Review Board or originating
913 division for further work, or any other action it deems appropriate. The Commission may also request
914 the person appealing, Agency staff, or both to submit proposed findings of fact, conclusions of law,
915 orders, and/or briefs.

916
917 After the Commission has fully considered the information provided at the hearing, any post-hearing
918 information, and the laws specific to the case, it shall issue its order conveying its decision in regard to
919 the taxpayer's appeal which order is considered confidential for all tax matters excluding ad valorem

920 tax. The Commission Secretary will mail the order to the taxpayer. Notice to the taxpayer's
921 authorized representative constitutes notice to the taxpayer.

922

923 In Commission hearings involving tax determinations, the hearing will not be transcribed since any
924 judicial review of the Commission decision will involve a full evidentiary judicial hearing. However,
925 these hearings will be tape-recorded.

926

927 The Commission hearings regarding beer, tobacco, or sales tax permits/licenses, and title matters will
928 be recorded by a court reporter. Hearings before the Commission regarding Alcoholic Beverage
929 Control (ABC) matters shall be held as provided in ABC Regulations.

930

931 **M. Judicial review.**

932 Any person aggrieved by the final Order of the Commission may seek a judicial review of that
933 decision as provided by law.

934

935

936 **SECTION 9. REQUESTS FOR GUIDANCE**

937

938 Any taxpayer or person seeking information concerning their responsibilities and requirements with
939 the laws administered by the Agency may request advice and guidance concerning those obligations.
940 The requests may be through an informal means such as oral advice or letter rulings, or formally
941 through a declaratory opinion.

942

943 Taxpayers or other persons may also obtain publications of the Agency that provide information useful
944 to complying with the laws administered by the Agency. Most printed publications of the Agency may
945 also be found on the Mississippi State Tax Commission website.

946

947 **A. Oral advice.**

948 Many questions may be answered easily over the telephone or in person by an agent of the
949 Commissioner. Advice given at audit meetings or conferences with Agency employees is considered
950 oral advice. Oral advice is considered advisory only and is non-binding.

951

952 Taxpayers or persons who have complicated questions or issues driven by their own particular business
953 facts and circumstances should seek a letter ruling on the matter or request further advice from the
954 Agency as provided.

955

956 **B. Letter rulings.**

957 Taxpayers or other persons may seek guidance by submitting a written request for a letter ruling to the
958 Commission Secretary. They may also e-mail questions through the Agency's website.

959

960 When asking for instruction on a specific issue, it is necessary to provide adequate information in
961 order to accurately answer the question. Because the correspondence is based on one person's specific
962 facts and circumstances, the response is restricted to the taxpayer or person making the request for
963 information and the specific facts involved.

964

965 This written response is considered informal guidance; however, the taxpayer or person requesting the
966 letter ruling may rely on the response absent a law or regulation change and provided that the
967 information presented is factual and complete with no material omissions and no changes have been
968 made with regard to the information provided.

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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 forward.

Notwithstanding a written retraction of the letter ruling, a law or rule change, or the person's particular circumstances altering the issue under discussion, 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.

The Agency will accept anonymous requests for a letter ruling, such as in the case of a voluntary disclosure, but the response will not be binding until the identity of the person has been disclosed to the Agency. The name and other identifying information of the anonymous entity 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 entity is not provided within the time period provided.

Notice to the 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 representation.

C. Declaratory Opinions.

1. Scope of 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, by Mississippi Code Ann. § 25-43-2.103.

2. Persons who may request declaratory opinions.

Any person with a substantial interest in the subject matter may submit a written request to the Agency for a declaratory opinion by following the specified procedures. "Substantial interest in the subject matter" means that the interest must be direct, immediate, and not remote in consequence. A "substantial interest" is one that surpasses 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 responsibility 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 Commission or Commissioner. The Agency will not issue a declaratory opinion regarding a statute or rule beyond the administration 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, 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 non-sufficient to provide a conclusive determination, or the information is too vague or too broad to provide an answer.

- 1016 c. A pending or active audit, criminal tax investigation, anticipated litigation,
1017 administrative action, or other determination before the Agency or court which may
1018 either answer the question presented or otherwise make an answer unnecessary on
1019 subject matter under question is in progress.
- 1020 d. The statute, rule, or order on which a declaratory opinion is sought is clear and not in
1021 need of interpretation to answer the question presented.
- 1022
- 1023 e. The confidentiality waiver on the Declaratory Opinion Transmittal Form is not
1024 signed and provided to the Agency with the request for a declaratory opinion.
- 1025
- 1026 f. The request fails to contain information required by these rules or the requestor failed
1027 to follow the procedure set forth in this rule.
- 1028
- 1029 g. The request seeks to resolve issues that have become moot, are abstract, or involve
1030 multiple hypotheticals such that the requestor is not substantially affected by the rule or
1031 statute on which a declaratory opinion is sought.
- 1032
- 1033 h. No controversy exists concerning the issue as the requestor is not faced with existing
1034 facts or those certain to arise which raise a question concerning the application of the
1035 statute or rule.
- 1036
- 1037 i. The question presented by the request concerns the legal validity of a statute or rule.
- 1038
- 1039 j. The requesting party is not directly affected by the application of the statute, rule or
1040 regulation.
- 1041
- 1042 k. No clear answer is determinable.
- 1043
- 1044 l. The question presented involves the application of a criminal statute or facts that may
1045 constitute a crime.
- 1046
- 1047 m. The answer to the question presented would require the disclosure of information
1048 that is privileged or otherwise protected by law from disclosure.
- 1049
- 1050 n. The request involves an issue that may adversely affect the interests of the
1051 State, the Commission, or any of the Agency's officers or employees in any
1052 litigation that is pending or may reasonably be expected to arise.
- 1053

1054 **5. Form of the request for a declaratory opinion.**

1055 A written request for a Declaratory Opinion, including a completed Declaratory Opinion
1056 Transmittal Form, is required. Each request must be printed or typewritten, or must be in
1057 legible handwriting. Each request must be submitted on standard business letter-size paper.
1058 Requests may be in the form of a letter addressed to the Commission Secretary or in the form
1059 of a pleading as might be addressed to a court.

1060

1061 All requests must be mailed or delivered to the Commission Secretary. The request and any
1062 envelope shall clearly state that it is a request for a declaratory opinion. Oral, telephone, or
1063 facsimile requests are not acceptable. The request must include a completed transmittal form

1064 as prescribed by the Commissioner and executed confidentiality waiver signed by the taxpayer
1065 or person requesting the declaratory opinion.

1066
1067 Each request must include the full name, telephone number, and mailing address of the
1068 requestor. All requests shall be signed by the person filing the request or a duly authorized
1069 representative. The signing party shall attest that the request complies with the requirements set
1070 forth in these rules. A declaratory opinion will have no effect if it is later determined the
1071 request did not comply with the requirements of this rule.

1072
1073 A request must be limited to a single set of facts and each request shall contain the following:

- 1074
1075 a. Clear identification of the statute, rule, or order at issue;
1076 b. Concise statement of the issue or question presented for the declaratory opinion;
1077 c. Complete and accurate statement of all facts relevant to a resolution of the question
1078 presented;
1079 d. Identity of all known persons involved or impacted by the factual situation causing
1080 the request, including their relationship to the facts, name, mailing address, and
1081 telephone number;
1082 e. Statement sufficient to show that the person seeking relief is substantially affected by
1083 the statute, rule, or regulation.

1084
1085 A request may contain relevant information to support a position or proposed opinion
1086 suggested by the requestor. The argument may be submitted in the form of a brief containing a
1087 full discussion of the reasons, including any legal authorities in support of such position of the
1088 requestor. The Agency may request that additional information be submitted by any interested
1089 party.

1090
1091 **6. Time for Mississippi State Tax Commission's response.**

1092 Within forty-five (45) days after the receipt of a request for a declaratory opinion which
1093 complies with the requirements of these rules, the Agency will respond in writing by one of the
1094 following:

- 1095
1096 a. Issue an opinion declaring the applicability of the specified statute, rule, or order to
1097 the specified circumstances;
1098 b. Decline to issue a declaratory opinion, stating the reasons for its action;
1099 c. Agree to issue a declaratory opinion or a written decision declining to issue an
1100 opinion by a specified time but no later than ninety (90) days after receipt of the written
1101 request.

1102
1103 The forty-five (45) day period will begin on the first State of Mississippi business day after the
1104 request is received by the Agency.

1105
1106 Responses may be sent to the authorized representative in lieu of the requesting party or the
1107 person signing the request.

1108
1109 **7. Public availability of requests and declaratory opinions.**

1110 Declaratory opinions and requests for declaratory opinions are available for public inspection.

1111

1112 The taxpayer must sign a confidentiality waiver to authorize the Agency to disclose the
1113 contents of the declaratory opinion.

1114

1115

1116 **SECTION 10. ADDRESS INFORMATION**

1117

1118 The following are mailing and delivery addresses for correspondence with the Agency as referred to in
1119 this regulation.

1120

1121 **A. Commission Secretary.**

1122 By mail: Commission Secretary, P. O. Box 22805, Jackson MS 39225-2805.

1123 By delivery: Commission Secretary, 1577 Springridge Road, Raymond MS 39154

1124

1125 **B. Chairman of Review Board.**

1126 By mail: Chairman of Review Board, P. O. Box 22828, Jackson, MS 39225

1127 By delivery: Chairman of Review Board, 1577 Springridge Road, Raymond MS 39154

1128

1129 **C. Website.**

1130

1131 www.mstc.state.ms.us

1132

1133

1134 **SECTION 11. EFFECTIVE DATE OF REGULATION**

1135

1136 This regulation shall be in effect on and after June 30, 2005.