

As Introduced

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H. B. No. 404

Representative Schaffer

**Cosponsors: Representatives Amstutz, Becker, Blessing, Burkley, Duffey,
Hackett, Henne**

A BILL

To amend section 5739.121 of the Revised Code to 1
allow vendors to deduct or apply for a refund of 2
sales tax remitted for bad debts on private 3
label credit cards used to make purchases from 4
the vendor. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5739.121 of the Revised Code be 6
amended to read as follows: 7

Sec. 5739.121. (A) As used in this section, ~~"bad-;~~ 8

(1) "Bad debt" means any debt that has become worthless or 9
uncollectible in the time period between a vendor's preceding 10
return and the present return, has been uncollected for at least 11
six months, and that may be claimed as a deduction pursuant to 12
the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 13
166, as amended, and regulations adopted pursuant thereto, or 14
that could be claimed as such a deduction if the vendor kept 15
accounts on an accrual basis. "Bad debt" does not include any 16
interest or sales tax on the purchase price, uncollectible 17

amounts on property that remains in the possession of the vendor 18
until the full purchase price is paid, expenses incurred in 19
attempting to collect any account receivable or for any portion 20
of the debt recovered, and repossessed property. 21

(2) "Lender" means a person or an affiliate, assignee, or 22
transferee of a person that owns a private label credit card 23
account, or an interest in a private label credit card 24
receivable, provided that interest was any of the following: 25

(a) Transferred from a third party; 26

(b) Purchased directly from a vendor that remitted tax 27
imposed under this chapter or from an affiliate of the vendor; 28

(c) Originated according to a written agreement between 29
the person and a vendor that remitted tax imposed under this 30
chapter or an affiliate of the vendor. 31

(3) "Private label credit card" means a charge card, 32
credit card, or charge account on which the name or logo of a 33
vendor appears. 34

(4) "Accounts or receivables bad debt" means the unpaid 35
balance on private label credit card accounts or receivables 36
that are bad debt and are charged off as uncollectible on the 37
books of a lender on or after July 1, 2016, and against which a 38
deduction or refund has not previously been taken or allowed, 39
respectively, under this section. For the purposes of division 40
(A) (4) of this section only, "bad debt" shall be determined 41
without regard to when the debt has become worthless or 42
uncollectible relative to the period between a vendor's returns, 43
and the deductibility of the debt for federal income tax 44
purposes shall be determined with respect to the lender instead 45
of the vendor. 46

(5) "Affiliate" means any person that is a member of an 47
affiliated group or that would be a member of an affiliated 48
group if the person was a corporation. 49

(6) "Affiliated group" has the same meaning as in section 50
1504 of the Internal Revenue Code. 51

(B) In computing taxable receipts for purposes of this 52
chapter, a vendor may deduct the amount of bad debts. ~~The~~ Except 53
as provided in division (F) of this section, the amount deducted 54
must be charged off as uncollectible on the books of the vendor. 55
A deduction may be claimed only with respect to bad debts on 56
which the taxes pursuant to sections 5739.10 and 5739.12 of the 57
Revised Code were paid in a preceding tax period. If the 58
vendor's business consists of taxable and nontaxable 59
transactions, the deduction shall equal the full amount of the 60
debt if the debt is documented as a taxable transaction in the 61
vendor's records. If no such documentation is available, the 62
maximum deduction on any bad debt shall equal the amount of the 63
bad debt multiplied by the quotient obtained by dividing the 64
sales taxed pursuant to this chapter during the preceding 65
calendar year by all sales during the preceding calendar year, 66
whether taxed or not. If a consumer or other person pays all or 67
part of a bad debt with respect to which a vendor claimed a 68
deduction under this section, the vendor shall be liable for the 69
amount of taxes deducted in connection with that portion of the 70
debt for which payment is received and shall remit such taxes in 71
the vendor's next payment to the tax commissioner. 72

(C) Any claim for a bad debt deduction under this section 73
shall be supported by such evidence as the tax commissioner by 74
rule requires. The commissioner shall review any change in the 75
rate of taxation applicable to any taxable sales by a vendor 76

claiming a deduction pursuant to this section and adopt rules 77
for altering the deduction in the event of such a change in 78
order to ensure that the deduction on any bad debt does not 79
result in the vendor claiming the deduction recovering any more 80
or less than the taxes imposed on the sale that constitutes the 81
bad debt. 82

(D) In any reporting period in which the amount of bad 83
debt exceeds the amount of taxable sales for the period, the 84
vendor may file a refund claim for any tax collected on the bad 85
debt in excess of the tax reported on the return. The refund 86
claim shall be filed in the manner provided in section 5739.07 87
of the Revised Code, except that the claim may be filed within 88
four years of the due date of the return on which the bad debt 89
first could have been claimed. 90

(E) When the filing responsibilities of a vendor have been 91
assumed by a certified service provider, the certified service 92
provider shall claim the bad debt allowance provided by this 93
section on behalf of the vendor. The certified service provider 94
shall credit or refund to the vendor the full amount of any bad 95
debt allowance or refund. 96

~~(F) No person other than the vendor in the transaction~~ 97
~~that generated the bad debt or, as provided in division (E) of~~ 98
~~this section, a certified service provider, may claim the bad~~ 99
~~debt allowance provided by this section.~~ (1) A vendor may deduct 100
on a return or obtain a refund of tax remitted by the vendor on 101
accounts or receivables bad debt. 102

A vendor taking a deduction or claiming a refund under 103
division (F) (1) of this section shall include all credit sale 104
transactions outstanding in the account or receivable at the 105
time the account or receivable is charged off as uncollectible 106

on the books of a lender in calculating the deduction or refund, 107
regardless of the date on which the credit sale transaction 108
occurs. 109

(2) The deduction or refund authorized under division (F) 110
(1) of this section may be taken or obtained by the vendor only 111
on the basis of accounts or receivables bad debt from purchases 112
from the vendor whose name or logo appears on the private label 113
credit card or from purchases from any of the vendor's 114
affiliates or franchisees. 115

(3) A vendor taking a deduction or receiving a refund 116
under division (F)(1) of this section shall maintain books, 117
records, or other documents verifying the accounts or 118
receivables bad debt, which shall be open to inspection by the 119
commissioner upon request. 120

(4) If the vendor or lender collects in whole or part any 121
accounts or receivables bad debt on the basis of which the 122
vendor took a deduction or received a refund under division (F) 123
of this section, the vendor shall include the amount collected 124
in the vendor's first return filed after the collection and pay 125
tax on the portion of that amount with respect to which the 126
vendor took the deduction or received a refund. 127

For the purpose of calculating the amount of tax to remit 128
under division (F)(4) of this section, the vendor shall allocate 129
payments made by the holder of a private label credit card on 130
the holder's accounts based on the agreement between the account 131
holder and the vendor or lender. 132

(G) The tax commissioner may adopt rules necessary to 133
administer this section. 134

Section 2. That existing section 5739.121 of the Revised 135

Code is hereby repealed.

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