

AN ACT

To amend section 5739.121 of the Revised Code to allow vendors to deduct sales tax remitted for certain bad debts charged off as uncollectible by credit account lenders.

Be it enacted by the General Assembly of the State of Ohio:

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

Sec. 5739.121. (A) As used in this section, ~~"bad:~~

(1) "Bad debt" means any debt that has become worthless or uncollectible in the time period between a vendor's preceding return and the present return, has been uncollected for at least six months, and that may be claimed as a deduction pursuant to the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted pursuant thereto, or that could be claimed as such a deduction if the vendor kept accounts on an accrual basis. "Bad debt" does not include any interest or sales tax on the purchase price, uncollectible amounts on property that remains in the possession of the vendor until the full purchase price is paid, expenses incurred in attempting to collect any account receivable or for any portion of the debt recovered, and repossessed property.

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

(a) Transferred from a third party;

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

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

(3) "Private label credit account" means a credit account that carries, refers to, or is branded with the name of a vendor and for which the lender, when establishing the consumer's credit limit, complied with all applicable Ohio and federal laws that are intended to protect consumers, including all of the following:

(a) The "Credit Card Accountability Responsibility and Disclosure Act of 2009," 15 U.S.C. 1601 et seq.;

(b) The "Equal Credit Opportunity Act," 15 U.S.C. 1691 et seq.;

(c) The "Fair Credit Reporting Act," 15 U.S.C. 1681.

(4) "Accounts or receivables bad debt" means the unpaid balance on private label credit accounts or private label credit account receivables that are bad debt and are charged off as uncollectible on the books of a lender on or after July 1, 2023, and against which a deduction has not

previously been taken under this section. For the purposes of division (A)(4) of this section only, "bad debt" shall be determined without regard to when the debt has become worthless or uncollectible relative to the period between a vendor's returns, and the deductibility of the debt for federal income tax purposes shall be determined with respect to the lender instead of the vendor.

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

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

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

(C) Any claim for a bad debt deduction under this section shall be supported by such evidence as the tax commissioner by rule requires. The commissioner shall review any change in the rate of taxation applicable to any taxable sales by a vendor claiming a deduction pursuant to this section and adopt rules for altering the deduction in the event of such a change in order to ensure that the deduction on any bad debt does not result in the vendor claiming the deduction recovering any more or less than the taxes imposed on the sale that constitutes the bad debt.

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

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

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

A vendor taking a deduction under division (F)(1) of this section shall include all credit sale transactions outstanding in the account or receivable at the time the account or receivable is charged

off as uncollectible on the books of a lender in calculating the deduction, regardless of the date on which the credit sale transaction occurs.

(2) The deduction authorized under division (F)(1) of this section may be taken by the vendor only on the basis of accounts or receivables bad debt from purchases from the vendor whose name is carried, referred to, or branded on the private label credit account or from purchases from any of the vendor's affiliates or franchisees.

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

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

(5) If the total amount of accounts or receivables bad debt for a month exceeds a vendor's taxable sales for that month, the vendor may carry forward and deduct the excess on succeeding tax returns until the total amount of accounts or receivables bad debt has been deducted.

(6) Unless otherwise agreed to by the lender and vendor, the economic benefit of the deduction permitted under division (F)(1) of this section shall inure to the benefit of the party that suffered the economic burden of the accounts or receivables bad debt.

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

SECTION 2. That existing section 5739.121 of the Revised Code is hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____