

As Reported by the House Ways and Means Committee

134th General Assembly

Regular Session

2021-2022

Sub. H. B. No. 223

Representative Hillyer

Cosponsors: Representatives Miller, J., Riedel, Seitz

A BILL

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 19
of the debt recovered, and repossessed property. 20

(2) "Lender" means a person or an affiliate, assignee, or 21
transferee of a person that owns a private label credit account, 22
or an interest in a private label credit account receivable, 23
provided that interest was any of the following: 24

(a) Transferred from a third party; 25

(b) Purchased directly from a vendor that remitted tax 26
imposed under this chapter or from an affiliate of the vendor; 27

(c) Originated according to a written agreement between 28
the person and a vendor that remitted tax imposed under this 29
chapter or an affiliate of the vendor. 30

(3) "Private label credit account" means a credit account 31
that carries, refers to, or is branded with the name of a vendor 32
and for which the lender, when establishing the consumer's 33
credit limit, complied with all applicable Ohio and federal laws 34
that are intended to protect consumers, including all of the 35
following: 36

(a) The "Credit Card Accountability Responsibility and 37
Disclosure Act of 2009," 15 U.S.C. 1601 et seq.; 38

(b) The "Equal Credit Opportunity Act," 15 U.S.C. 1691 et 39
seq.; 40

(c) The "Fair Credit Reporting Act," 15 U.S.C. 1681. 41

(4) "Accounts or receivables bad debt" means the unpaid 42
balance on private label credit accounts or private label credit 43
account receivables that are bad debt and are charged off as 44
uncollectible on the books of a lender on or after July 1, 2023, 45
and against which a deduction has not previously been taken 46

under this section. For the purposes of division (A) (4) of this 47
section only, "bad debt" shall be determined without regard to 48
when the debt has become worthless or uncollectible relative to 49
the period between a vendor's returns, and the deductibility of 50
the debt for federal income tax purposes shall be determined 51
with respect to the lender instead of the vendor. 52

(5) "Affiliate" means any person that is a member of an 53
affiliated group or that would be a member of an affiliated 54
group if the person was a corporation. 55

(6) "Affiliated group" has the same meaning as in section 56
1504 of the Internal Revenue Code. 57

(B) In computing taxable receipts for purposes of this 58
chapter, a vendor may deduct the amount of bad debts. ~~The~~ Except 59
as provided in division (F) of this section, the amount deducted 60
must be charged off as uncollectible on the books of the vendor. 61
A deduction may be claimed only with respect to bad debts on 62
which the taxes pursuant to sections 5739.10 and 5739.12 of the 63
Revised Code were paid in a preceding tax period. If the 64
vendor's business consists of taxable and nontaxable 65
transactions, the deduction shall equal the full amount of the 66
debt if the debt is documented as a taxable transaction in the 67
vendor's records. If no such documentation is available, the 68
maximum deduction on any bad debt shall equal the amount of the 69
bad debt multiplied by the quotient obtained by dividing the 70
sales taxed pursuant to this chapter during the preceding 71
calendar year by all sales during the preceding calendar year, 72
whether taxed or not. If a consumer or other person pays all or 73
part of a bad debt with respect to which a vendor claimed a 74
deduction under this section, the vendor shall be liable for the 75
amount of taxes deducted in connection with that portion of the 76

debt for which payment is received and shall remit such taxes in 77
the vendor's next payment to the tax commissioner. 78

(C) Any claim for a bad debt deduction under this section 79
shall be supported by such evidence as the tax commissioner by 80
rule requires. The commissioner shall review any change in the 81
rate of taxation applicable to any taxable sales by a vendor 82
claiming a deduction pursuant to this section and adopt rules 83
for altering the deduction in the event of such a change in 84
order to ensure that the deduction on any bad debt does not 85
result in the vendor claiming the deduction recovering any more 86
or less than the taxes imposed on the sale that constitutes the 87
bad debt. 88

(D) In any reporting period in which the amount of bad 89
debt other than the accounts or receivables bad debt exceeds the 90
amount of taxable sales for the period, the vendor may file a 91
refund claim for any tax collected on the bad debt in excess of 92
the tax reported on the return. The refund claim shall be filed 93
in the manner provided in section 5739.07 of the Revised Code, 94
except that the claim may be filed within four years of the due 95
date of the return on which the bad debt first could have been 96
claimed. 97

(E) When the filing responsibilities of a vendor have been 98
assumed by a certified service provider, the certified service 99
provider shall claim the bad debt allowance provided by this 100
section on behalf of the vendor. The certified service provider 101
shall credit or refund to the vendor the full amount of any bad 102
debt allowance or refund. 103

~~(F) No person other than the vendor in the transaction 104
that generated the bad debt or, as provided in division (E) of 105
this section, a certified service provider, may claim the bad 106~~

~~debt allowance provided by this section~~ (1) A vendor may deduct 107
on a return accounts or receivables bad debt. 108

A vendor taking a deduction under division (F) (1) of this 109
section shall include all credit sale transactions outstanding 110
in the account or receivable at the time the account or 111
receivable is charged off as uncollectible on the books of a 112
lender in calculating the deduction, regardless of the date on 113
which the credit sale transaction occurs. 114

(2) The deduction authorized under division (F) (1) of this 115
section may be taken by the vendor only on the basis of accounts 116
or receivables bad debt from purchases from the vendor whose 117
name is carried, referred to, or branded on the private label 118
credit account or from purchases from any of the vendor's 119
affiliates or franchisees. 120

(3) A vendor taking a deduction under division (F) (1) of 121
this section shall maintain books, records, or other documents 122
verifying the accounts or receivables bad debt, which shall be 123
open to inspection by the commissioner upon request. 124

(4) If the lender collects in whole or part any accounts 125
or receivables bad debt on the basis of which the vendor took a 126
deduction under division (F) of this section, the vendor shall 127
include the amount collected in the vendor's first return filed 128
after the collection and pay tax on the portion of that amount 129
with respect to which the vendor took the deduction. 130

(5) If the total amount of accounts or receivables bad 131
debt for a month exceeds a vendor's taxable sales for that 132
month, the vendor may carry forward and deduct the excess on 133
succeeding tax returns until the total amount of accounts or 134
receivables bad debt has been deducted. 135

(6) Unless otherwise agreed to by the lender and vendor, 136
the economic benefit of the deduction permitted under division 137
(F) (1) of this section shall inure to the benefit of the party 138
that suffered the economic burden of the accounts or receivables 139
bad debt. 140

(G) The tax commissioner may adopt rules necessary to 141
administer this section. 142

Section 2. That existing section 5739.121 of the Revised 143
Code is hereby repealed. 144