

As Reported by the House Ways and Means Committee

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H. B. No. 66

Representatives Hall, Stoltzfus

Cosponsors: Representatives Cross, Dean, Miller, K., Hillyer, Schmidt, Lipps,
Johnson, Ferguson, Young, T., Seitz, Dell'Aquila, Roemer

A BILL

To amend section 5743.53 and to enact section 1
5743.06 of the Revised Code regarding the 2
deduction and recovery of bad debts for 3
cigarette and tobacco and vapor products taxes. 4

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

Section 1. That section 5743.53 be amended and section 5
5743.06 of the Revised Code be enacted to read as follows: 6

Sec. 5743.06. (A) As used in this section, "bad debt" 7
means any debt that arises from the sale by a wholesale dealer 8
of cigarettes properly stamped under section 5743.03, 5743.031, 9
or 5743.04 of the Revised Code, that has become worthless or 10
uncollectible, that has been uncollected for at least six 11
months, and that may be claimed as a deduction pursuant to the 12
"Internal Revenue Code of 1954," 26 U.S.C. 166, and regulations 13
adopted pursuant thereto, or that could be claimed as such a 14
deduction if the wholesale dealer kept accounts on an accrual 15
basis. "Bad debt" does not include any interest or financing 16
charges on the debt, expenses incurred in attempting to collect 17
the debt or for any portion of the debt recovered, any accounts 18

receivable that have been sold or assigned to a third party, or 19
repossessed property. 20

(B) A wholesale dealer may apply to the tax commissioner 21
for a refund of the value of cigarette tax stamps, less any 22
discounts provided under section 5743.05 of the Revised Code, 23
that are part of bad debt of the dealer. The commissioner shall 24
not refund any amount for bad debt under this section unless the 25
dealer has charged off the bad debt on its books as 26
uncollectible. If a purchaser or other person pays all or part 27
of a bad debt with respect to which a wholesale dealer received 28
a refund under this section, the dealer is liable for the 29
prorated amount of taxes refunded in connection with that 30
portion of the debt for which such payment was received and 31
shall remit such taxes to the commissioner in the manner the 32
commissioner prescribes. Any request for refund under this 33
section shall be supported by such evidence the commissioner 34
requires, including, but not limited to, all of the following: 35

(1) A copy of the original invoice; 36

(2) Evidence that the cigarettes described in the invoice 37
were delivered to the person that ordered them; 38

(3) Evidence that the person who ordered and received such 39
cigarettes did not pay the wholesale dealer for the cigarettes 40
and that the dealer used reasonable collection practices in 41
attempting to collect the debt. 42

(C) A request for refund under this section shall be filed 43
within three years after the date the bad debt became 44
uncollectible. For each request, the commissioner shall 45
determine the amount of refund to which the applicant is 46
entitled. If the amount is not less than that claimed, the 47

commissioner shall certify the amount to the director of budget 48
and management and treasurer of state for payment from the tax 49
refund fund created by section 5703.052 of the Revised Code. If 50
the amount is less than that claimed, the commissioner shall 51
proceed in accordance with section 5703.70 of the Revised Code. 52

(D) The commissioner may adopt any rules necessary to 53
administer this section. Notwithstanding any provision of 54
section 121.95 of the Revised Code to the contrary, a regulatory 55
restriction contained in a rule adopted under this section is 56
not subject to sections 121.95 to 121.953 of the Revised Code. 57

(E) No person other than the wholesaler that purchased the 58
tax stamps and generated the bad debt may claim the refund 59
authorized under this section. 60

Sec. 5743.53. (A) The treasurer of state shall refund to a 61
taxpayer any of the following: 62

(1) Amounts imposed under this chapter that were paid 63
illegally or erroneously or paid on an illegal or erroneous 64
assessment; 65

(2) Any tax paid on tobacco products or vapor products 66
that have been sold or shipped to retail dealers, wholesale 67
dealers, or vapor distributors outside this state, returned to 68
the manufacturer, or destroyed by the taxpayer with the prior 69
approval of the tax commissioner; 70

(3) In accordance with division (E) of this section, any 71
tax paid by a distributor or vapor distributor on tobacco or 72
vapor products, less any discounts provided under section 73
5743.52 of the Revised Code, that are part of bad debt of the 74
distributor or vapor distributor. 75

Any application for refund shall be filed with the 76

commissioner on a form prescribed by the commissioner for that 77
purpose. The commissioner may not pay any refund on an 78
application for refund filed with the commissioner more than 79
three years from the date of the payment. 80

(B) On the filing of the application for refund, the 81
commissioner shall determine the amount of the refund to which 82
the applicant is entitled. If the amount is not less than that 83
claimed, the commissioner shall certify the amount to the 84
director of budget and management and to the treasurer of state 85
for payment from the tax refund fund created by section 5703.052 86
of the Revised Code. If the amount is less than that claimed, 87
the commissioner shall proceed in accordance with section 88
5703.70 of the Revised Code. 89

If a refund is granted for payment of an illegal or 90
erroneous assessment issued by the department of taxation, the 91
refund shall include interest on the amount of the refund from 92
the date of the overpayment. The interest shall be computed at 93
the rate per annum in the manner prescribed by section 5703.47 94
of the Revised Code. 95

(C) If any person entitled to a refund under this section 96
or section 5703.70 of the Revised Code is indebted to the state 97
for any tax administered by the tax commissioner, or any charge, 98
penalties, or interest arising from such tax, the amount 99
allowable on the application for refund first shall be applied 100
in satisfaction of the debt. 101

(D) In lieu of granting a refund payable under division 102
(A) (2) of this section, the tax commissioner may allow a 103
taxpayer to claim a credit of the amount of refundable tax on 104
the return for the period during which the tax became 105
refundable. The commissioner may require taxpayers to submit any 106

information necessary to support a claim for a credit under this 107
section, and the commissioner shall allow no credit if that 108
information is not provided. 109

(E)(1) As used in this section, "bad debt" means any debt 110
that arises from the sale by a distributor or vapor distributor 111
of tobacco or vapor products for which the distributor or vapor 112
distributor remitted the tax due under section 5743.51 of the 113
Revised Code, that has become worthless or uncollectible, that 114
has been uncollected for at least six months, and that may be 115
claimed as a deduction pursuant to the "Internal Revenue Code of 116
1954," 26 U.S.C. 166, and regulations adopted pursuant thereto, 117
or that could be claimed as such a deduction if the distributor 118
or vapor distributor kept account on an accrual basis. "Bad 119
debt" does not include any interest or financing charges on the 120
debt, expenses incurred in attempting to collect the debt or for 121
any portion of the debt recovered, any accounts receivable that 122
have been sold or assigned to a third party, or repossessed 123
property. 124

(2) The commissioner shall not refund any amount for bad 125
debt under division (A)(3) of this section unless the 126
distributor or vapor distributor has charged off the bad debt on 127
its books as uncollectible. If a purchaser or other person pays 128
all or part of a bad debt with respect to which a distributor or 129
vapor distributor received a refund under this section, the 130
distributor or vapor distributor is liable for the prorated 131
amount of taxes refunded in connection with that portion of the 132
debt for which such payment was received and shall remit such 133
taxes to the commissioner in the manner the commissioner 134
prescribes. Any request for refund under division (A)(3) of this 135
section shall be supported by such evidence the commissioner 136
requires, including, but not limited to, all of the following: 137

<u>(a) A copy of the original invoice;</u>	138
<u>(b) Evidence that the tobacco or vapor products described</u>	139
<u>in the invoice were delivered to the person that ordered them;</u>	140
<u>(c) Evidence that the person who ordered and received such</u>	141
<u>tobacco or vapor products did not pay the distributor or vapor</u>	142
<u>distributor for the tobacco or vapor products and that the</u>	143
<u>distributor or vapor distributor used reasonable collection</u>	144
<u>practices in attempting to collect the debt;</u>	145
<u>(d) Evidence of the wholesale price or vapor volume, as</u>	146
<u>applicable to the product, at the time the product was subjected</u>	147
<u>to the tax imposed under section 5743.51 of the Revised Code.</u>	148
<u>(3) No person other than the distributor or vapor</u>	149
<u>distributor that paid the tax imposed under section 5743.51 of</u>	150
<u>the Revised Code to the state and generated the bad debt may</u>	151
<u>claim the bad debt refund authorized under division (E) of this</u>	152
<u>section.</u>	153
<u>(F) The commissioner may adopt any rules necessary to</u>	154
<u>administer this section. Notwithstanding any provision of</u>	155
<u>section 121.95 of the Revised Code to the contrary, a regulatory</u>	156
<u>restriction contained in a rule adopted under division (E) of</u>	157
<u>this section is not subject to sections 121.95 to 121.953 of the</u>	158
<u>Revised Code.</u>	159
Section 2. That existing section 5743.53 of the Revised	160
Code is hereby repealed.	161
Section 3. The amendments by this act to sections 5743.06	162
and 5743.53 of the Revised Code apply to bad debts charged off	163
as uncollectible on the books and records of a wholesale dealer,	164
distributor, or vapor distributor on or after January 1, 2024.	165