

**As Reported by the Senate Ways and Means Committee**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Sub. H. B. No. 223**

**Representative Hillyer**

**Cosponsors: Representatives Miller, J., Riedel, Seitz, Carruthers, Click, Gross,  
Merrin, Stein**

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**A BILL**

To amend section 5739.121 of the Revised Code to 1  
allow vendors to deduct sales tax remitted for 2  
certain bad debts charged off as uncollectible 3  
by credit account lenders. 4

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

**Section 1.** That section 5739.121 of the Revised Code be 5  
amended to read as follows: 6

**Sec. 5739.121.** (A) As used in this section, ~~"bad:~~ 7

(1) "Bad debt" means any debt that has become worthless or 8  
uncollectible in the time period between a vendor's preceding 9  
return and the present return, has been uncollected for at least 10  
six months, and that may be claimed as a deduction pursuant to 11  
the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 12  
166, as amended, and regulations adopted pursuant thereto, or 13  
that could be claimed as such a deduction if the vendor kept 14  
accounts on an accrual basis. "Bad debt" does not include any 15  
interest or sales tax on the purchase price, uncollectible 16  
amounts on property that remains in the possession of the vendor 17

until the full purchase price is paid, expenses incurred in 18  
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

<u>receivables bad debt has been deducted.</u>	135
<u>(6) Unless otherwise agreed to by the lender and vendor,</u>	136
<u>the economic benefit of the deduction permitted under division</u>	137
<u>(F)(1) of this section shall inure to the benefit of the party</u>	138
<u>that suffered the economic burden of the accounts or receivables</u>	139
<u>bad debt.</u>	140
<u>(G) The tax commissioner may adopt rules necessary to</u>	141
<u>administer this section.</u>	142
<b>Section 2.</b> That existing section 5739.121 of the Revised	143
Code is hereby repealed.	144