



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Sam Benham

Sub. H.B. 545

132nd General Assembly
(As Reported by H. Ways & Means)

Reps. Arndt, Romanchuk, Schaffer, Riedel, Becker, Hood, Lang, Scherer, Hambley, Patmon, Rogers, Anielski, Boyd, Cera, Green, Henne, Ramos, Retherford, Ryan

BILL SUMMARY

- Authorizes certain small retailers to remit sales taxes only after the retailer receives the customer's payment if the payment is received after the purchased item is delivered or the service provided.
 - Requires a retailer remitting sales tax in this manner to report to the Tax Commissioner the amount of any uncollectible receipts from such sales.
 - Exempts from sales and use tax the sale of tampons and other feminine hygiene products associated with menstruation.
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CONTENT AND OPERATION

Sales tax collection process

The bill authorizes certain small vendors, beginning in 2020, to change the manner in which the vendor remits sales taxes on sales in which a customer pays for an item or service after the item is delivered or the service is actually provided.¹ Continuing law imposes state and local sales taxes on tangible personal property and certain services purchased in Ohio. Before selling taxable items in the state, an Ohio vendor must obtain a state-issued license under which the vendor collects sales tax as a trustee for the state. A vendor is required to report and remit sales taxes to the state generally on a monthly basis (hereafter, "reporting period").²

¹ R.C. 5739.03; Section 3.

² R.C. 5739.12 and 5739.17, not in the bill.

State law prescribes the manner in which vendors must collect and remit sales taxes. One of two collection methods may apply, depending on the manner in which the customer is paying for the taxable property or service. Under continuing law, if the customer is paying for the property or service in cash when or before obtaining the property or service ("cash sale"), the vendor collects sales tax with the cash payment, holds the tax in trust for the state, and remits the tax to the state with the return for that reporting period.

If the price is paid in any other manner – e.g., the vendor receives payment after the customer obtains the property or service ("credit sale") – the vendor is required, under current law, to charge the tax to the customer's account and remit the full amount of sales tax with the return for the reporting period in which the sale is made. In practical terms, remitting tax in this manner may require a vendor to pay sales tax to the state before the vendor receives the customer's payment. To compensate for customers who ultimately do not pay the whole price plus the tax (i.e., who create a "bad debt" on the vendor's accounts), state law allows the vendor to recover the amount of any such debt that has remained uncollected for six months or more and that the vendor has written off as uncollectible.

Proposed deferral of tax remittance

The bill allows certain small vendors to delay remitting sales tax from credit sales until after the vendor has received a customer's payment.³ This authority would be available on an annual calendar year basis. To qualify for this option, such a "qualifying small vendor" must have annual gross sales of no more than \$1 million in the preceding year and qualify as a "microbusiness" for at least seven months of the preceding year. A microbusiness is defined as an independently owned, for-profit business that, during a given month, employs fewer than the equivalent of 20 full-time employees, i.e., 20 employees working the equivalent of 30 hours or more per week.⁴

If a qualifying small vendor decides to remit taxes in this manner, it must do so for all credit sales made in a calendar year. If a customer makes a partial payment to the vendor for one of those credit sales, the vendor must remit sales tax on the partial payment.⁵ If any of these credit sales becomes bad debt, the vendor is required to report the bad debt and the identity of the defaulting customer to the Tax Commissioner on the return for the reporting period in which the vendor charges off the bad debt as uncollectible. Once reported, the vendor is absolved of liability for the unpaid sales tax

³ R.C. 5739.03(A)(2) and (G)(1).

⁴ R.C. 166.50, not in the bill, and 5739.03(G)(4).

⁵ R.C. 5739.03(G)(1).



on that debt. But the vendor is required to remit sales tax on the basis of any bad debt the customer eventually pays.⁶

Voluntary or mandatory reversion to conventional method

A qualifying small vendor that has been remitting sales tax on credit sales in this manner for any number of years may voluntarily revert to remitting tax on credit sales when the sale is made, as required under current law's method. However, the vendor must remit sales tax on any pending credit sales made during that period (except on any such sales reported as bad debt).⁷

If a vendor fails to meet the requirements of a qualifying small vendor for a year, the vendor is required to revert to remitting tax on credit sales when the sale is made in the manner required by the current method. The reversion begins in the following year, and, as with the voluntary reversion, the vendor is required to remit sales tax on any pending credit sales except on reported bad debt.⁸

Sales and use tax exemption for feminine hygiene products

The bill exempts from sales and use tax feminine hygiene products principally used in connection with the menstrual cycle, e.g. tampons, panty liners, menstrual cups, and sanitary napkins. The exemption applies to all such items purchased on or after July 1, 2019.⁹

HISTORY

ACTION	DATE
Introduced	03-13-18
Reported, H. Ways & Means	06-27-18

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⁶ R.C. 5739.121(G).

⁷ R.C. 5739.03(G)(2).

⁸ R.C. 5739.03(G)(3).

⁹ R.C. 5739.02(B)(57).

